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This American People

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This American People

by GERALD W. JOHNSON

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THIS AMERICAN PEOPLE

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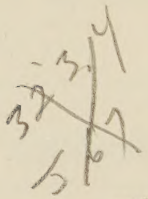

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To

The Unknown Civilian

who will be the new Washington this
book is dedicated with complete
faith in his timely arrival

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Preliminary

LET'S GET THIS STRAIGHT

DEMOCRACY is a dangerous form of government. The United States of America is a democracy.

These two propositions sum up to the conclusion that to be American is perilous, but people, especially campaign orators and speakers exhorting the young, rarely refer to the fact.

This is an error, or so the writer of these lines believes. It ignores one quality essential to genuine Americanism, namely, willingness to assume a risk.

To be American is more than being an American. One may be "an" American by the accident of birth; but to be American requires thought, effort, and, especially, courage. One may be American without being native. Alexander Hamilton and Carl Schurz were born abroad, but no one doubts that they became American. On the other hand, one may be native, yet not thoroughly American. Henry James was born in this country, but when a great emergency arose turned British. Judah P. Benjamin, born abroad, came

to this country but his Americanism didn't take, as that of Hamilton and Schurz did. In an emergency he, too, turned British.

This book is an inquiry into the risks that a man must run now if he is to be thoroughly and profoundly American. It is not an assertion that everyone should run those risks; it is merely an inquiry into what they are.

This country swarms with people, native-born, who are not, cannot be, and ought not to try to be American. They are those who, although they are qualified to vote, will not take the trouble to vote, and in 1950 they numbered more than half of those qualified. No doubt these people have value, of a sort, but not political value. To the extent that what they produce is worth more than what they consume, they have the same sort of value that swine and beef cattle have; but as far as running the country to make it a decent place in which to live is concerned, they count not at all. There is no point in talking to them about Americanism, for they are incapable of being effective citizens of any country; at best, they are merely additions to the working force.

But there is nothing particularly alarming about this because it is a condition that has existed from the beginning. John Adams figured that at the time of the Revolution not more than one-third of the population of the thirteen colonies really favored independence. Another third went along with the Whigs, but half-heartedly, because they really didn't care what sort of government they lived under.

The remaining third, in Adams' opinion, were opposed to the whole business and remained loyal to the British king.

This country is now, and always has been, managed and controlled by a minority. It consists of those who get out and do something toward making government decent, if it is no more than to cast a ballot when election day comes. But although they are the smaller part of the population, they comprise this American people. The rest are Americans in a legal sense, but not American in a real sense. They are not anti-American, either. They are not anything, so they are not worthy of consideration.

But the minority that does participate in government, that decides the policies of this country, that wins its triumphs and makes its mistakes, is so tremendously important that in the year 1951 the man who can win and hold its confidence is very nearly in position to rule the world—or to ruin it, if he is an incompetent fellow.

When a man is really important, the worst adviser he can have is a flatterer. The American citizen has had too many flatterers, telling him what a great and glorious thing it is to be American, but never mentioning how difficult and dangerous it is. After the flatterer, the next worst adviser is the cynic, telling him that his apparent merit is all bosh, and that his aspirations are forever impossible.

This book makes an effort to steer clear of flattery on the one hand and cynicism on the other. It concedes that to be truly American is difficult, but denies that it is impossible,

because millions of people have managed it for more than a century and a half. It concedes that as time has passed and conditions have changed, the risks that must be run have changed in form, if not much in substance; and it believes that at the moment it is more important to examine present risks than to gloat over past successes. Finally, it is the opinion of the writer—an opinion based on evidence, but not by any means proved—that the qualities, physical, mental, and moral, demonstrated by the men who founded and those who have maintained this republic are sufficient to cope successfully with the perils that now surround us.

But it is not here asserted that we, meaning plain, ordinary Americans, still have those qualities; this is a question that the reader will not find answered in this book. To answer it, he must search his own heart. The times are perilous, and the penalties of failure terrific; and yet, as Socrates remarked to Simmias long ago, "fair is the prize and the hope great!"

This American People

Chapter I

THE FOUNDING FATHERS HAD THE RIGHT IDEA

THE government of the United States, thus far, has been a success. If you take the time element into consideration, it has been perhaps the most brilliant success in the history of government, for in the space of less than two centuries it has converted a string of backwoods settlements into a colossus so immense that in military power it is rivaled by one only, and in wealth by none.

Beyond dispute it follows that in 1776 the Americans had the right idea. At that time, and in that place, and for those people, the American scheme was a good one. But the time has gone, the place has expanded enormously, and the people are all dead. Instead of the last quarter of the eighteenth century, a thin line of settlements on the edge of a vast wilderness, and a population consisting for the most part of Englishmen, we have the latter half of the twentieth century, a world power continental in extent, and a composite population made up of every race under heaven, one-eighth of

them not even European in origin, much less English. It is not unreasonable, therefore, to ask whether the American idea is still good; for an idea admirably adapted to one time and place may be hopelessly bad at another time and in a wholly different place.

The United States differs from most European nations in that it started at a moment in time that can be definitely fixed. For contrast consider such a nation as, say, France. It first came into history as Gaul and it changed over into France gradually and slowly; there are a dozen theories as to exactly when it became unmistakably France, and to this day the laws, the language, and the customs of the country have a Gallic flavor. Therefore anyone who undertakes to define the French idea of government runs into difficulties. Part of it is written in the constitution of the republic, but a great deal has never been written down anywhere; it is embedded in customs and traditions handed on from days when the republic did not exist and was not even dreamed of.

The United States, on the other hand, came into existence on a particular day, July 4, 1776, when the Declaration of Independence was signed; or, if one is fastidious about legal formalities, two days earlier when the Declaration was adopted by the Continental Congress. In any event, whether the country began on July 2, when it was adopted, or on July 4, when it was signed, the Declaration of Independence created the United States.

The former British colonies understood that they were

establishing a precedent, or, rather, trying an experiment in government. They saw fit, therefore, out of what they called "a decent respect to the opinions of mankind," to explain in detail their reasons for taking the step, and their idea of what government should be.

Eleven years later, the war for independence having been won and the United States recognized by all the important powers of Europe, the country found that its original loose organization, embodied in the Articles of Confederation, was impractical and must be replaced by a firmer combination. The result was the Constitution under which the United States still operates; and which is, incidentally, now the oldest written constitution that is still in force. Once more, this country made a definite statement. As the Declaration of Independence had outlined the American idea of what a government should be, the Constitution outlined the idea of how it should work. In these two documents, therefore, we have a definite, official, authoritative statement of the American idea of government. There is no guesswork about it. It is written down and signed by men who had authority to speak for the country.

Since then, of course, many books, a whole library of books, have been written by persons intent on explaining, expounding, and expanding the essential American doctrine. Some of them have been clear and logical, some confused and downright irrational, and some have been clever distortions of plain statements. Some are worth the careful study

of anyone who hopes to understand this country; but none can replace the original statement, because none has the authority of the original.

That original statement is brief and plain, consisting of less than two hundred words. They are in the two preambles—first, that to the Declaration; second, that to the Constitution; but they comprise the whole American doctrine of government as it was agreed upon by the men who founded the republic. The relevant words are these:

From the Declaration of Independence:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their Safety and Happiness.

From the Constitution of the United States:

We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution.

That is the doctrine. That is all of it. Whoso has added to it has done so on his own responsibility, without authoriza-

tion from the people; whoso has subtracted anything from it has taken what was not within his right to take.

Like every general doctrine the American idea must, of course, be interpreted in the light of existing conditions, and as conditions change, interpretations will vary somewhat. But the object of this inquiry is to scrutinize, not interpretations, but the doctrine itself. When this doctrine was accepted by the American people, the first part in 1776 and the second in 1787, many of the problems that harass our government today did not exist. The question is, have conditions altered to such an extent that the doctrine itself is no longer valid?

It is a fair question. To assume, as some people do, that merely to ask such a question is a kind of sacrilege is not an intelligent attitude. No scheme of government is equally good in all places, at all times, and among all peoples. The American scheme has not been adopted in its entirety by any other nation; and the others had what seemed to them, and probably were, good reasons for rejecting parts of it.

For one thing, the American system is exceedingly dangerous. This may seem an odd idea to an American citizen who has lived all his life under it without being conscious of any grave peril except when we had to fight for our national existence against foreign enemies, as in 1917 and again in 1941. To him it may appear that the American system, far from being dangerous, is the safest form of government in existence.

He overlooks the fact that freedom implies danger. The

safest man in the world is the slave, because a slave is valuable property and his master will do everything he can to protect that property from damage. The slave is fed, clothed and housed without giving such matters a moment's thought. His master sees to them. If the master is intelligent he sends for a doctor when the slave is sick, and bails him out when he gets into trouble with the police. If he can prevent it he will not permit his slave to be exposed to the enemy in time of war, nor to danger of death or bodily injury in time of peace. Above all, he strives to protect his slaves against contact with pernicious ideas that might lead them into trouble.

The freeman has to take his chances with hunger, cold, disease and war. By combining with other freemen he has provided himself with some protection against the more terrible dangers that threaten all human beings; but what protection he has he created for himself. He walks in danger at all times and such security as he possesses is dependent on the good faith of his fellow freemen.

Above all, the freeman is exposed to the dangers that come from thinking for himself. If he thinks wrong, there is no wise master to set him right. If he thinks fire will not burn him, he finds that he is wrong by getting burned. Since all men make errors in thinking from time to time, it follows that the freemen in this world are constantly getting burned. Two centuries ago it was taken for granted almost everywhere that people who tried to govern themselves would not only get burned, but burned to death.

The Founding Fathers Had the Right Idea

In 1776 the people of thirteen British colonies in North America determined to risk it. Today it is hard for us to imagine how much courage it took to reach that decision. Even when we read the books, pamphlets and articles written by men who argued for independence—such men as John and Samuel Adams, Tom Paine, Benjamin Franklin, Thomas Jefferson, Patrick Henry and the rest—there is something unreal about it. We can see that what they say is true enough, but why so much drive, why so much passion, why scream so loudly in stating what everybody knows?

The answer is that in their time they were not stating what everybody knows. They were stating what nobody knew and what relatively few believed. Government of the people, by the people, for the people did not exist on this earth and the most widely respected authorities said it could never exist. The Americans were arguing against all accepted principles of government, against tradition, against precedent. They were trying to persuade their readers to take a terrific risk on an untried theory, and no doubt one reason why they were so loud was that they were trying not only to convince their neighbors, but also to drown out their own fears.

Because we have escaped so far, let us not fall into the error of thinking that the risk was imaginary. It was real. It has remained real. It is real at this day. Foreign enemies were not the only, nor the greatest danger. Every hour since 1776 the United States of America has been exposed to the calamity that overtook Russia in 1917 and Germany in 1933

—the calamity of having tyrants convince the people that their only hope lies in submitting to tyranny. It could happen here. What has saved us is not our isolated position, for Russia was relatively isolated in 1917, nor our general intelligence, for Germany was intelligent and perhaps the best-educated country in the world in 1933. What has saved us so far is not general, but political intelligence—good sense, but a special form of good sense that we have contrived to develop more successfully than any other modern people.

The American has acquired a certain amount of political skill that has enabled him to operate, without wrecking it, a tricky and dangerous form of government. It doesn't follow that he is brighter than others, or more virtuous than others, or even luckier than others, although he has had a good deal of luck. He has simply learned something about the art of democratic government. To be sure, he is still a long way from mastering that difficult art, and at any time he may forget what little he has learned, with ruinous results. But for a hundred and sixty-two years—if you can count from the establishment of the Constitution in 1789—he has been skillful enough to keep the thing going. When it does work, it is a good system. If you doubt that, look at what it has done on this continent. Judging by results it is by far the best governmental system ever devised—while it works.

It follows that to keep it working is the supreme duty of this generation. But to keep any system working it is nec-

essary, from time to time, to examine it from the bottom up. It is necessary ever to keep in mind the basic principles on which it was founded, for there are always those who are willing to serve their own advantage by twisting and perverting the basic principles of the system.

It is also necessary to take into account both the rate and the extent of change since 1776, not merely in politics but in every other phase of life as well. The machine age—what is generally called the industrial revolution—began in England about 1750, which is to say it was no more than well started when the war of American independence broke out twenty-six years later. England itself was only slightly industrialized in 1776, and this country was hardly touched. But the machine age has made a tremendous difference, not only in the way people live, but also in the way they think. It was easy for John Hancock to think of himself as primarily a citizen of Massachusetts in 1776 with only a very slight and vague relation to Georgia; and for Patrick Henry to proclaim himself first, last, and always a Virginian. John Adams had a broader outlook than Hancock, but he thought of himself first as a New Englander, and in the Continental Congress his chief effort was to secure for New England trusty allies in Virginia and New York, much as American statesmen, when 1951 began, were trying to make reliable allies of Great Britain and France.

Before railroads were built it took months to travel by land from Boston to Savannah, or weeks to travel by sea. Hence, it was an unusual Bostonian who could realize that

Massachusetts and Georgia were parts of the same country. Today a Bostonian who doesn't realize it is a very stupid fellow. One reason for that change in thinking is the fact that the two States are now only a few hours apart by airplane, while the telephone makes it possible for a Bostonian to talk to a Georgian in a few minutes. The airplane and the telephone are both products of the machine age. So are the telegraph, the railroad and the automobile. These are the machines that have pulled the country together, so, in a way, the present solidity of the United States is a product of that age.

But the industrial revolution did not bring us advantages only, with no disadvantages at all. On the contrary, while it did away with many old troubles, it brought a long string of new ones to replace the old—so many, in fact, that gloomy thinkers sometimes deny that what we call progress is real; for, they say, if we have advanced one foot in this place, we have slipped back a foot in some other place, and the outcome is to leave us just about where we were. If it is now easier for Georgia and Massachusetts to help each other, it is also easier for them to bother each other, and it is a question whether the bother isn't greater than the help.

This is the doctrine of pessimism, which is still strong in the United States, although it is now rarely applied to the forty-eight States. They have worked together too long and too well for anyone to have serious doubts of the value of the union; but it is still very strong as regards

other countries. For it is not the United States only, it is the whole world that has been pulled together by the machine age. Today a Bostonian can go to Albania in much less time than it took to go to Georgia in 1776; and he could talk to an Albanian—if he were not prevented by the Iron Curtain—as easily as to a Georgian.

What this is going to do to our system of government nobody knows, for it is a new state of affairs, one that has never been tried before. The gloomy thinkers can see no good in it, and their fears cannot be laughed off, for some danger certainly exists. Possibly the danger is greater today than it was in 1776, for the nations that are now drawn uncomfortably close to us differ from us in language, manners, and customs far more than the American colonies differed before the machine age. Once more we are compelled by circumstances over which we have no control to try new experiments in government; and once more we are badly worried.

But the worry, at least, is nothing new. People who think it extraordinary for American statesmen to be uneasy about the future of the republic have not read much history, or have not read it with much care. John Adams and Thomas Jefferson went through the Revolution[1] together, and how they felt about it was vividly expressed

[1] We usually call it the Revolution, but that is rather too strong a word. It upset nothing but the government, while a first-class, high-powered revolution, such as the French, in 1789, and the Russian, in 1917, upsets classes, manners, customs, and all the ways of living. Our fight against the British was rather a war of independence than a true revolution.

by Jefferson in a letter to Adams nearly forty years later: "Laboring always at the same oar, with some wave ever ahead, threatening to overwhelm us, and yet passing harmless under our bark, we knew not how we rode through the storm with heart and hand, and made a happy port." The experience of the American people in the five years following the second World War could hardly be better described than in the words "with some wave ever ahead, threatening to overwhelm us, and yet passing harmless under our bark." One cannot as yet add, "and made a happy port," but it is consoling to think that Jefferson and Adams did it, in times not less terrifying than our own.

Courage was the touchstone of character then—not merely courage to face death on the field of battle, or the even more steely courage to face death on the gallows, but the rare form of bravery that it takes to do what you think is right even though you have no proof that you are right. We call it having the courage of one's convictions, and we use the phrase smoothly and glibly, too often without thinking much about it. But to have the courage of one's convictions when the issues involve life and death is an exceedingly unusual quality. Striving to do what the wisdom of the past has discovered is right makes a good man; but doing what one believes is right without help from the wisdom of the past makes a great man; and in the field of statesmanship the founders of this republic rose to greatness.

But not without terror. In the Declaration they said

"we hold" certain truths to be self-evident. No other nation held them to be self-evident, or evident at all. Certain unusual men in England, in France, in every civilized country had reached the conclusions expressed in the Declaration, but they were exceptional people. John Locke, the English philosopher, for instance, had worked out the idea in books from which the Americans constantly quoted, but Locke was a private citizen and at one time was regarded with so much suspicion that he had to leave England. In France Charles de Montesquieu expressed similar thoughts, but he, too, was a theorist, not a great officer of state. Other unusual men in other countries had reached, or very nearly reached, the ideas expressed in the Declaration of Independence and the Constitution—so many, indeed, that it is fair to say that those ideas were in the air of the eighteenth century, all over Europe as well as here.

But is it one thing to risk your reputation for good sense by expressing original ideas in books or conversation, and something quite different to risk your neck by setting them up as the basis of a government which you are prepared to defend with arms. It takes intellectual courage for a man to work out a new idea to its logical conclusions; but it takes physical and moral courage as well for him to act on that idea. If the men who created the Declaration and the Constitution had been wrong, they faced ruin three times over. In the first place they, or the more prominent among them, would certainly have been hanged for treason. This, one may say, is enough; why say more? But in

addition, they would have been made to look like a pack of silly dreamers, and men who are proud of their ability to think would rather be hanged than be made to look silly. Finally, they would have betrayed their countrymen into a ruinous and fatal adventure; and honest men hold that nothing, not even death on the gallows, is as bad as the moral responsibility of having led others to their ruin.

The essential American doctrine, then, is a doctrine formulated by a group of badly worried men, one may say badly frightened men. Even Franklin's famous jest as the delegates were putting their names to the Declaration shows it. "We must all hang together, now," said someone, and the remark betrays the speaker's anxiety. "Yes," said old Ben, "or we shall assuredly hang separately." There was laughter, but it was certainly nervous laughter. They could joke, but even the jokes were grim.

It is reasonable to inquire, if this is true, how it happens that a document composed under such circumstances is marked by a high serenity, a calm confidence rarely to be matched in famous state papers. "Unalienable[2] rights . . . life, liberty and the pursuit of happiness . . . to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

[2] So the word appears in the first printed copy in the Journal of Congress. But before the Declaration of Independence was printed Jefferson made, with his own hand, a number of copies for friends, five of which are still in existence. Dr. Julian Boyd, who has examined them all, says that Jefferson always wrote "inalienable." John Adams made a copy for himself, and in that it appears as "unalienable."

. . ." In 1776 these were wildly radical statements, denied by every lawgiver from Solon down; but they are set forth here with as bland an assurance as if they had been copied from the tablets of stone that Moses brought down from Sinai. Doubt, uncertainty, irresolution are swept away; it is the very essence of determination, certainty, calm.

This is to be understood only by taking a look at the nature of courage. In our careless way with words we are accustomed to think of "brave" and "fearless" as meaning the same thing. But this is not necessarily true. A man may be fearless because he is too stupid to see the danger that confronts him; there is no credit in that. The brave man is one who sees the danger, understands it, and is horribly scared by it, but who goes ahead and does his duty anyhow. A man who can do that cannot be shaken by anything. He can be beaten and destroyed, but he cannot be made to shiver and falter, and when he speaks there is no quaver in his voice. There is none in the Declaration, because brave men wrote it.

Here, then, is the first, basic quality of the American idea of government. It is a doctrine adopted by brave men for brave men. That is understood in every line of both preambles; dismiss that, and it is useless to talk about them any more. The Declaration of Independence and the Constitution applied to a nation without courage would not be worth the paper they were written on; indeed, they

would be worse than useless, for they would lead cowards into adventures that cowards cannot endure, and destruction would be the result.

Fortunately, there is little reason for Americans in the second half of the twentieth century to worry over this point; a thousand battlefields all over the world bear witness that whatever else may have happened to them, there is plenty of manhood left in this people. But physical courage is not enough; there were brave men before Agamemnon, as the poet Horace has pointed out, whose very names have perished; but Agamemnon succeeded, and so became the theme of immortal song. For more than a century and a half the American idea of government has been enormously successful, but not simply because it was bold; Hitler's political theory was just as bold, yet it proved disastrous in less than a dozen years. To make sure that the American idea is still good, one must consider other things than the courage of those who devised it.

Nor can it be attributed solely to the Godlike wisdom of those men. They were a long way from infallible, especially when it came to determining not what the government should be, but what it should do, that is to say, in writing the Constitution that was to make the Declaration effective in time of peace. In our admiration of the sturdiness of what remains, we tend to forget how much of their work collapsed at the first test.

For instance one of the devices that they fancied most

blew up in the very first election that was contested. George Washington was twice chosen President unanimously, and John Adams without determined opposition, so there was no contest until the election of 1800. But then and there the scheme of naming certain especially wise and virtuous persons to select a President for the rest of us fell to pieces. The thing was not formally repealed; to this day we vote for electors who, in turn, elect the President and Vice-President, but since the year 1800 only twice has an elector refused to vote for the man to whom his vote was pledged before the election. Once was in 1820, when Monroe was unopposed for re-election, but William Plumer, an elector from New Hampshire, cast a vote against him because, it was said, he was determined that none but George Washington should have the honor of unanimous election; the second was in 1948 when Preston Parks, an elector from Tennessee, voted for the States' Rights candidate instead of the Democratic candidate, to whom his State delegation was pledged. So, by voting for electors pledged to the man of their choice, the people in effect say who shall be President.

The failure of this provision, and especially the way in which it failed, shows, by contrast, the strength of most of the work. The system of electors was adopted because a majority of the delegates at the Constitutional Convention agreed with Alexander Hamilton that the people were not capable of choosing a good man for President. They did not explain how people who cannot choose a good man

for President can choose good men for electors; yet it would seem plain that a group of bad electors would certainly choose a bad President.

To the mass of the people the whole business of the electors looked liked nonsense and they simply disregarded it. They did not pay enough attention to it even to repeal it; it is still the law, but like any other law in which most of the people do not believe it is a dead letter, and has never been anything else; for out of thousands of electors only two in a hundred and fifty years have had the temerity to vote otherwise than as the people of their State voted. In view of the complete failure of this provision, and of the immense strength of most of the Constitution, it is clear that the part of the work that stands represented the strong beliefs of the greater part of the American people. The American system of government works just as long as, and just to the extent that, the people believe in it. This is not a theory, this a fact, and the smartest argument of the smartest lawyer in the world cannot change it.

Another idea that collapsed was the provision that the man most favored should be President and the man with the next highest number of electoral votes should be Vice-President. This also broke down in 1800, when Jefferson's party, intent on electing Jefferson and Burr, inadvertently gave the same number of electoral votes to each, and there was a moment when it seemed likely that Burr would be President and Jefferson Vice-President. That provision was

promptly repealed, for the very reason that there was danger that it might work.

The original Constitution provided that Senators should be elected by State legislatures, not by the people. That has collapsed. It recognized the institution of human slavery. Only a terrific war could eliminate that, but it went out. Even before ratification, an understanding had been reached that the Constitution would be modified by adding to it a Bill of Rights (comprised in the first ten amendments) and since then it has been altered in important respects no less than ten times—twelve, if you count the Eighteenth Amendment that put prohibition in the Constitution, and the Twenty-first, that took it out again; but this was something with which the makers of the Constitution had nothing to do.

Yet despite these errors the men of 1787 were so nearly right that the Constitution they framed has remained the organic law of the land. No one has seriously attempted to alter their original statement of what the government should do, that is, the preamble. That much they got right at the first trial; so it is reasonable to assume that it comprises the essential American doctrine of the operation of government.

One characteristic of this preamble is that it is very broad and therefore adaptable to changing conditions. For example, the phrase "promote the general welfare" admits the adoption of almost any policy that seems clearly for

the public good. This could have been done only by men with confidence in the future. Confidence in the future is usually stronger in young men than in old ones, and it is notably true that the founders of this republic were young, especially at the time of the Declaration. Jefferson was then 33, John Adams 41, Benjamin Rush 31, Elbridge Gerry 32, Robert Morris 42, James Wilson 34, and so it went. Only eight of the fifty-six signers were over 55, and one of the eight was the wonderful Benjamin Franklin who lived for 83 years but never really grew old.

This belief that future generations will be wise and honest enough to manage their own affairs without being tightly bound by the ideas of our time unquestionably accounts for the flexibility of the American system, and therefore for its success. But it is risky. There is no question of that, and men as they grow older are less and less inclined to assume risks. The American system, therefore, may be described as one devised by men who were young in spirit—most of them young in years, too—and best adapted to a nation that is young in spirit, at least to the extent of having confidence in the coming generations.

It is much easier to prove that this country still has the courage of its Founding Fathers than it is to prove that it retains their youthful spirit. For one thing, the average age of the population is a good many years higher now than it was in 1776. For another, the American government, as a government, is now the oldest of the democracies—for England did not become a genuine democracy until about the time of the

Reform Bill of 1832. For another, the perils that confront us today are different from the perils of 1787—different, but not necessarily more terrifying—and so may produce a different effect. For a fourth, every important act of the United States government today has repercussions that could have been produced by nothing that the men of 1776 and 1787 could do; hence every important act calls for much more thought and study, which are not altogether consistent with the spirit of youth.

Thus it is more than merely idle speculation to inquire to what extent the American idea may have been rendered out of date by time and change. The question does not necessarily imply that the country has degenerated; but it does imply that the questioner knows exactly what the doctrine is and is prepared to consider its application to modern problems as they exist.

From the way they talk it is clear that some people in high positions do not know either what the American doctrine is or how it bears on modern questions. No doubt they learned the Declaration and the Constitution, as most of us did, in the sixth or seventh grade; perhaps they can repeat the words of the preambles even now. But they have overlaid them with so many explanations, interpretations, arguments, and inferences that they have quite forgotten the meaning of the original text.

They talk about "Americanism" and "the American way of life" in a vague, muzzy fashion that means little, if anything. We have a committee in the House of Representatives

known as "the un-American activities committee" that takes no interest in the activities of foreigners, ignoring the fact that any activity in which an American engages is necessarily an American activity. What they have in mind is, of course, "anti-American activities," but the title shows our carelessness with words.

It leads to carelessness with ideas. Now and then people who know the doctrine associate it only with ideas long out of date. They cut it off from any connection with modern life and so make the study of history nothing but the threshing over of old straw. That is of no practical value. We are no longer threatened with Indian uprisings, or invasions by the Spaniards in Florida, perils that worried our forefathers. The slave system does not need our attention, nor free navigation of the Mississippi, much as those things perplexed the early republic.

It is strictly practical, however, to raise such questions as these: How has the government's supreme duty to protect life, liberty, and the pursuit of happiness been affected by the appearance among us of persons of questionable loyalty? By the conflict between conscience and the increasing need of social discipline? By the appearance of monopoly and the disappearance of business opportunity? By the extension of education and the new meaning it gives to academic freedom? By the development of political parties, followed and partly displaced by pressure groups? By the increase of Federal and decrease of State powers? Finally, and perhaps the most im-

portant of all, by the fact that the United States has grown so huge that every move it makes shakes the world?

The last is certainly a modern problem with which the Founding Fathers did not have to contend. Some of the others are strictly modern also, at least in the sense that they present themselves to us in forms unfamiliar to Washington and Jefferson and Hamilton. The waves, even as in Jefferson's day, are certainly threatening to overwhelm us; some have passed harmlessly under our bark, although we know not how; so it is anything but idle to strive with heart and hand, and above all with mind, to determine, if we can, our chance, under the old system in new times, to make "a happy port."

Chapter II

FREE SPEECH IS FOR BOLD PEOPLE

THE six proper aims of government mentioned in the preamble to the Constitution are all supports of the three "unalienable rights" named in the Declaration of Independence. "To form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense" are four efforts in behalf of life and liberty; to "promote the general welfare and secure the blessings of liberty to ourselves and our posterity" are two efforts in behalf of the pursuit of happiness.

The right to life needs no definition. The right to the pursuit of happiness is defined differently by every man, which is to say, in effect, that it cannot be strictly defined. But although men have always considered "liberty" as capable of definition, the definitions have always been open to dispute. The framers of the Constitution were reluctant to attempt one, taking the ground that, like "life," the word defined itself; but the people were not satisfied and it soon became evident that the nine State ratifications necessary to put it in force would never be secured unless there were

added to the Constitution an express statement of what that word was to mean.

Americans, who in 1787 were still for the most part English, or at least British, in origin, naturally thought of the British precedent. Almost a century earlier, in 1689, a new government had been formed in Great Britain. The oppressions and, what one may suspect were still more annoying to the British, the stupidities and downright idiocies of the government of James II had become intolerable, so in 1688 the people rose, threw him out and called to the throne his daughter Mary, who had married the Dutchman William of Orange. In those days William was a questionable choice, foreign, and not even royal, for Orange had long been absorbed by France and he was merely a Stadtholder, not a prince, in Holland.

It seemed prudent, therefore, to make sure that he understood the liberties of Englishmen before he was permitted to mount the throne. They were accordingly embodied in a written document which was submitted to William and Mary; and not until they had both formally accepted that document as law binding the sovereign as well as the subject were they permitted to reign. This document was called "the Bill of Rights," and it was so highly regarded that it had become almost a sacred writing among all the people of the empire.

So when the American people noted that in the original Constitution the liberties of the citizen were rather sketchily defined, they balked. They demanded that a Bill of Rights

be added to the instrument; and not until it was promised did nine States ratify. Accordingly, the first Congress in its first session submitted twelve amendments to the States, ten of which were adopted,[1] and have since been known as the Bill of Rights. So when the preambles say "liberty" the word must be accepted as it is construed in the Bill of Rights.

The first article in that Bill—which is the first amendment of the Constitution—takes up the negative aspect of the question. It reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The wording is curious: "Congress shall make no law . . ." Congress is not merely forbidden to touch these things, it is forbidden even to try to touch them. Religion, speech, and assembly are not proper subjects for discussion by Congress. In the whole passage there is only one modification; the assembly protected must be peaceable. No protection is guaranteed to riotous mobs.

Religion, speech, including printed speech, and public discussion in peaceable assemblies, are all matters in the field of opinion. Worship and utterance have to do with what a man thinks; what he does comes later. What the framers

[1] The two that were rejected related, one to apportionment of representatives, the other to compensation of members, neither having any relation to individual liberty. Thus it seems that even as early as 1789 smart politicians saw the advantage of using a popular movement to put over ideas having nothing to do with it. In this case they succeeded with Congress but failed with the States.

of the Constitution say on this subject is absolute, admitting no doubts, no exceptions, no modifications except "peaceable" applied to assemblies, and assemblies involve movement of bodies as well as activity of minds.

This means that the framers of the Constitution drew a clear distinction between the two kinds of liberty, liberty of movement and liberty of thought, or freedom of the body and freedom of the mind. Freedom of the body is limited by the simple fact that two bodies cannot occupy the same space at the same time. Hence, where I am and have a right to be, you cannot have a right to intrude; your liberty vanishes when it comes into collision with my right; so any law drawn by sane men must admit that freedom of the body is not and cannot be absolute.

But the men whose thinking dominated the country in 1787 believed that freedom of the mind is of a different order. It can be, and they thought it should be, absolute. While two bodies cannot occupy the same space at the same time, two minds can hold the same thought at the same time; their doing so is, in fact, the basis of all society. Since they cannot know that they are thinking alike until they express their thoughts to each other, it follows that absolute freedom of speech is an essential condition of absolute freedom of mind.

One of the most influential men of the time, Thomas Jefferson, put the idea into words so eloquent that they have been remembered and quoted ever since. "I have sworn upon the altar of God," he said, "eternal hostility against

every form of tyranny over the mind of man." Without doubt he used the word "tyranny" in the usual sense of oppressive and unjust rule; but in the beginning "tyrant" meant any absolute ruler, even a mild and beneficent one, and it is highly probable that if anyone had questioned him Jefferson would have said he was hostile to that form of rule, also, when it is applied to the minds of men.

But all this refers to a man's right to express the work of his mind, that is, his thoughts, not his emotions or his wishes. Hating, for example, is not thinking, and when a man uses words to express mere hatred, as when he stands up and curses his enemy in a public place, he is not exercising the right of free speech guaranteed by the Constitution. The law assumes that what he is really trying to do is not to express an opinion, but to provoke a fight, and maliciously disturbing the peace is not a right, it is a crime.

In the same way, a lie is not an opinion. If one had proclaimed publicly, "On February 20, 1781, I saw Thomas Jefferson steal a sheep," he would not have been expressing an opinion, he would have been telling a lie. He did not think anything of the kind, for a man does not think without a reason and there would have been no reason in this case.

If, however, he had seen a tall, sandy-haired man whom he mistook for Thomas Jefferson take some other man's sheep there would have been a reason, although a bad one, and the man might have been expressing an opinion; Jefferson would have allowed his right to speak, subject only to the condition that he offer proof of what he said. If he had no

proof, any honest man would thereupon offer Jefferson an apology and whatever amends he could make; and a dishonest man should be compelled to offer them. That is the basis of the modern law against libel and slander, which is aimed, not at the expression of honest opinion, but at the propagation of lies.

There is an explanation of the extreme position taken by the founders of this republic on freedom of the mind. It is the fact that the British government and, for that matter, all other governments, had believed it necessary to bind the minds of the people to maintain public order. The theory was that all government would go to pieces unless the people maintained at least an outward respect for their rulers. As a matter of fact, it is a sound theory; the flaw in the reasoning was the failure to admit that it is possible for the people to be their own rulers. If the American people ever lost their respect for themselves, the American government would not last long.

But if you admit that respect for their governors by the governed is essential to public order, and if you admit—as monarchies assumed—that the people cannot be their own governors, then the theory of sedition held by the government of George III was reasonable enough. In 1781 Thomas Jefferson was governor of Virginia. Ten years earlier, in 1771, he would have been not only governor, but also ruler of Virginia by grace of the king, the final authority; but in 1781 he was governor by grace of the people, and not a ruler, but the people's agent.

So in 1771 it would have been sedition to say publicly that the governor stole a sheep, if it were a lie; but if true it would have been twice as seditious, because it would have shaken faith in all government. The immunity from criticism accorded to rulers was designed to protect not so much the men as public order.

Once the people became their own rulers, however, this reasoning fell to the ground. Self-respect cannot be established or maintained by law, and it would have been preposterous for the British to enact laws forcing the king to respect a rascally governor, simply because he held the title by grace of the king. The American people are the sovereign power in this country and have a right to know the whole truth about their agents. Hence, if a governor steals a sheep it is not sedition, it is patriotic duty for any man who knows about it to inform the people. That is one reason why it is ordained that Congress shall make no law abridging freedom of speech.

So in 1787, when the Constitution was framed, our forefathers did everything within their power to establish freedom of the mind as absolute, admitting no exceptions and accepting no modifications. It was, however, freedom of the mind, not of the emotions. The right is guaranteed to a man who is thinking, not to one who is merely hating, or envying, or, on the other hand, idolizing, and therefore lying.

To dispute this is to deny that those men knew the English language, for their words are as plain as it was possible

to make them—"Congress shall make *no* law respecting" religion or abridging freedom of speech. Congress cannot even forbid an establishment of religion. All the states have written similar clauses in their own constitutions,[2] but if one had not there would be nothing to prevent its setting up a State Church tomorrow. Congress could do nothing about it.[3] Congress shall make *no* law abridging freedom of speech or the press. Since the only just reason for discussion in Congress is to determine what laws shall be made, it is clear that the Founding Fathers intended to prevent Congress from even talking about these subjects. They are separated and removed from the field of government.

Furthermore, the intent is proved by deeds as well as words. Freedom of religion, of speech, of the press, and of assembly was not decreed without opposition. There was a minority in the Constitutional Convention that regarded them all with grave suspicion, and that minority included men as able as John Adams and Alexander Hamilton. During the second administration of President Washington the party to which this minority belonged became the majority party,

[2] The extent to which we have forgotten what our government is really like is indicated by the fact that some otherwise intelligent people are only vaguely aware that every State has a constitution of its own into which it can write anything not specifically forbidden in the Federal Constitution or usurping the powers of the Federal government. The Constitution of the United States and treaties made under it are the supreme law of the land, but not the only law; and it is the Bill of Rights in his State constitution that is the chief protection of the citizen.

[3] Some excellent lawyers believe, however, that the Supreme Court could and would do a great deal about it if any State undertook to establish an official church. But since none has ever tried, it is what the law calls a moot question.

elected Adams to the Presidency, and once in power proceeded to enact the Sedition Laws of 1798.

These were a reversion to the old British—really European—idea that if the great officers of state were subjected to criticism limited only by the laws against libel and slander, the government would be endangered; so it was made a crime not only to tell lies, but also to speak disrespectfully of the President, of Congress, and of various other office-holders. Even if you told the truth it could still be disrespectful, and if disrespectful it was criminal.

The reaction against this law was so terrific that it destroyed the party. Adams was not only defeated for re-election, but neither he nor Hamilton ever held national office again, although they were two of the ablest men in America.

Adams was especially unfortunate. In the first place, the Sedition Laws were not his idea, and in the second his support of them was not attributable, as the majority of the voters came to believe, solely to his arrogance and personal vanity. He thought he saw pretty good reasons for legislation of the kind. Conditions then were curiously similar to those of today. Abroad, the mightiest army in the world was in the hands of men whom Adams could only regard as bloody-minded tyrants. These men were loudly and frantically boasting that they meant to overwhelm and abolish every other system of government in the world and impose their own upon the conquered nations; and they

seemed well on the way to doing it. That system was to John Adams an appalling travesty of democracy; like the Soviet government of Russia in 1951, it claimed to be more democratic than the democracies, but it allowed its own people no real freedom and maintained its power by one blood-dripping purge after another. The French Jacobins shocked and horrified conservative Americans fully as much as the Russian Communists did a century and a half later.

At home, too, Adams confronted a situation with which this generation should be able to sympathize. A small but noisy minority of American liberals, those endowed with more enthusiasm than judgment, had gone crazy over the new ideas proclaimed in France and were actually displaying more loyalty to France than to their own country. In Washington's time the Jacobins had sent here a diplomat worse than any the Soviets have dispatched to this country; he fitted out privateers in American ports and sent them to attack British shipping; he tried to raise an American legion to fight with the French army; and he went up and down the country denouncing the President and calling on Americans to repudiate his leadership. He got so bad that Secretary of State Jefferson, although he was sympathetic with the French Revolution, advised the President to demand this Genêt's recall.

Nevertheless, the poison continued to work. It was easy for Adams to believe, when he came to the Presidency, that the criticism directed at him was not in fact the expression

of real opinion, but an effort to serve France by damaging the United States. This was certainly natural. Most of us are tempted to attribute bad motives to those who speak slightingly of us. So Adams saw one newspaper editor after another thrown into jail, or subjected to heavy fines, for criticizing the administration; and the country came to believe that he was, if not actually a tyrant, yet in the way of becoming one. That finished him. At the same time it reaffirmed the words of the Constitution as meaning exactly what they said.

Adroit Jefferson, following Adams as President, accepted the verdict and acted upon it. He immediately released every critic of government still held in jail and remitted the fines of others. This constituted acknowledgment by the executive branch of the government that the people's judgment was to be accepted. So both by action of the people at the ballot box and by formal admission of the government itself, it is established that freedom of speech, especially as regards criticism of the government, cannot be abridged by act of Congress.

But all this happened between 1787 and 1801. A hundred and fifty years have passed, bringing enormous changes; and the pessimistic view of Adams and Hamilton is held once more by a strong party that may be now, or may soon become, the majority party. In 1951 the President of the United States appointed a commission under the chairmanship of Admiral Nimitz to inquire into the matter and to advise him how to make freedom of opinion consistent with

national safety.[4] This is an admission by the executive department that the government has responsibilities with regard to this problem—an admission perhaps forced by Congress through its various investigating committees.

Jefferson would have said that this problem cannot be solved by process of law. In fact, he did say that no process of law is necessary. His first inaugural address proclaimed his stand in these words: "If there be any among us who would wish to dissolve this union, or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it."

But that was in 1801, and since 1801 a great many things have changed, including, perhaps, the attitude of the American people. Furthermore, Jefferson did not say that error of opinion may be tolerated, and stop with that; he added, "where reason is left free to combat it," which is a condition, and a very important one. Suppress, or handicap reason, and the whole situation is altered.

For reason doesn't work like lightning. It must have time in which to operate, and if there is no time it is certainly handicapped and probably suppressed. That is what Justice Holmes meant when he said that while freedom of speech is a right, it doesn't mean that a man has a right to shout "Fire!" in a crowded theater, for in that situation reason has no time in which to work. This great judge stated the

[4] Nimitz and most of the commissioners resigned when Congress refused to give them what they regarded as a free hand in conducting their investigation. The affair had become involved in partisan and factional politics.

opinion formally in 1919, when he wrote a famous dissent in the case of *Abrams v. United States*; he said: "I think we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country."

It was on the latter part of Holmes' reasoning that Eugene V. Debs was sentenced to prison in 1918 for no other crime than making speeches. There was no question that Debs, then the leader of the Socialist party, was expressing an honest opinion; but the country was at war, and his opinion was that young men should resist the draft. With war already raging, there was no time to argue about it, and Debs' speech threatened that "immediate interference" mentioned by Holmes as overriding ordinary rules. The error of opinion could not be tolerated with safety because reason was not left free to combat it. Such, at least, was the argument of the government, and it was accepted by the Supreme Court.

Because Debs was a man of high character many people were horrified by his being thrown into jail like a common criminal; some jumped to the conclusion that his case proved that the United States had abandoned its old belief in freedom of speech. But they overlooked the fact that as early as 1801 Jefferson himself admitted that reason must be left free if error is to be tolerated safely, and in times of great emergency reason is not left free. This is, indeed, one, and not

the least dreadful, of the horrors of war. Cicero said, *Inter arma, silent leges*, "In time of war the laws are silent," and although lawyers have vehemently denied it ever since, experience has proved to the common man that Cicero was not altogether wrong.

When he made his report to Congress in February, 1951, General Eisenhower described this as "a world in which the power of military might is still too much respected." Whenever military might is too much respected, it is a certainty that civil rights will not be enough respected. This has been our experience throughout our national history. As soon as war breaks out our concern for military success overtakes and usually overrides our concern for personal liberty. This has led us into some strange situations.

One of the most important protections of the citizen against tyranny is what lawyers call the writ of habeas corpus. Literally, the words mean "have the body," and the writ is an order issued by a judge to a sheriff, or other arresting officer, to have the body—of the arrested man—brought before the judge at a specified time so that the judge may be satisfied that there was a good reason for the man's arrest. Before the writ existed it was possible for the king's police to arrest a subject and hold him in jail as long as they liked without bringing him to trial and giving him a chance to defend himself. Men were sometimes arrested, held in prison for years, and then released without even being charged with a crime. Obviously, then, the writ of habeas corpus is the very foundation of personal liberty;

yet *inter arma*, while the Civil War was raging, President Lincoln suspended the writ, and nothing was done about it. That is one instance in which the laws were silent.

During the first World War, when German spies were wreaking havoc in American munitions plants and at ports where ships were being loaded, Congress enacted very severe laws against espionage, including under that term not only overt acts of sabotage, but also talk that tended to discourage recruiting or to destroy confidence in the government. This was a return to the old English theory that officials must be protected from criticism in order to save the whole system. It was justified on the ground that reason was not left free to combat error of opinion, and about eighteen hundred persons were prosecuted, some on very flimsy evidence.

There is hardly a doubt that people were punished unjustly under this law, but some deserved what they got. Some probably were expressing honest opinions; but some were scoundrels who were bribed by the enemy; and it is likely that fear of the terrific punishments inflicted prevented a certain number of other rascals from selling out. War is always attended by injustice. There is no justice in it when one soldier is killed while the man next to him escapes unscathed and comes home to live long and prosper. But that is the fortune of war, and the only way to put an end to it is to put an end to war.

The doctrine was stated by the same Justice Holmes in another celebrated opinion (*Schenck v. United States*, 1919). "The question in every case," he said, "is whether the words

used . . . are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent." The mere utterance of words may not be a crime, but the creation of "a clear and present danger" is a crime, whether it is brought about by acts or by words alone.

When the Supreme Court says the law is thus-and-so, that makes it thus-and-so unless and until Congress changes it, or thirty-six states ratify an amendment to the Constitution. In this case Congress has not acted, nor has there been an amendment to the Constitution, so the words of Justice Holmes are the law of the land.

The question is, do they mean a change in the essential American doctrine respecting freedom of speech? It is difficult to answer. In fact, it cannot be answered by studying either the laws passed by Congress or the decisions of the Supreme Court. In the end, it will be answered by the attitude of the American people, including you and me; for even the Supreme Court of the United States can be overruled by the people through the process of Constitutional amendment. It is a slow and difficult process, but it can be done and it has been done;[5] so the attitude of the people is, in the last analysis, more decisive than that of either Congress or the courts.

It must be noted that in the first case cited *(Abrams v. United States)*, when he urged the necessity of protecting

[5] For instance, the Dred Scott decision, allowing Negro slaves to be transported into free States, and the decision holding the income tax unconstitutional were both rendered invalid by Constitutional amendment.

expression of opinions "that we loathe and believe fraught with death," Holmes was writing a dissent, which is to say, he was disagreeing with the majority of the Court. Those words, therefore, are not the law, but merely the opinion of Justice Holmes. However, the opinion of a great, learned, and honest judge is not to be lightly disregarded; sometimes it comes nearer the real beliefs of the people than does the contrary opinion of the rest of the Court. In such a case, if the people hold to their belief, the time will come when the dissent will be the law; for the people, not the Court, are sovereign.

In the great court of public opinion, therefore, the dissenting opinion of Holmes in the case of Abrams carries just about as much weight, and is worth about as much consideration, as his concurring opinion in the case of Schenck. It is very much to the point to compare them both with the original doctrine, as set out in the Declaration of Independence. The doctrine there stated is simple to the last degree: when any form of government—the word is "any," not excluding our own—becomes destructive of liberty (or life, or the pursuit of happiness) it is the right of the people to alter or abolish it. You seldom alter a form of government, and you never abolish one, without force and violence; but that did not disturb the signers of the Declaration, who were then and there preparing to employ force and violence to abolish the form of government under which they were living.

In the beginning of 1776 the British colonial system was

the American form of government. But in the estimation of the people it had become destructive of liberty, including freedom of speech, so they announced their determination to kill it and did kill it. Eighty-five years later the Confederate States of America decided that its national safety depended upon disunion and the perpetuation of slavery; this seemed, to the rest of the American people, destructive of liberty and they deemed no government fit to live at that price. So they killed the Confederacy. In 1914 the Imperial German government appeared to threaten destruction of the rights of life, liberty, and the pursuit of happiness throughout the world, so the American people joined with other democracies to kill it. In 1941 the totalitarian Axis presented an even worse threat to those rights; so at immense cost in blood and treasure the American people helped kill it. Counting the British colonial system, the Confederacy, and the German, Austrian, Turkish, Italian, and Japanese empires we have, singly, or jointly with others, destroyed seven forms of government in pursuance of our belief that no government has a right to protect its national safety at the price of the lives, liberties, and happiness of the people. Two of these forms, incidentally, were American, and none of these wars was fought to acquire additional territory or to collect large indemnities; so it is hard to see how our people could have asserted more emphatically their belief that national safety is not the final consideration in making the laws under which we live.

The American doctrine is that a nation has no right to safety if it is tyrannous and unjust.

Once more we turn to Jefferson for a clear and exact statement of what we believed in 1801. "Though the will of the majority is in all cases to prevail," he said in his first inaugural, and he was speaking of the American government, no other, "that will, to be rightful, must be reasonable; the minority possess their equal rights, which equal laws must protect, and to violate would be oppression." Jefferson wrote the Declaration himself, so he knew that it contained the doctrine that oppression is rightfully the death warrant of any government, a warrant which the people may execute at their pleasure. He was at that moment taking charge of the executive department of this government as President of the United States, so he was admitting that only as long as he preserved the liberties of the people did he have any right to their loyalty.

That's flat. There is no hemming and hawing, no backing and filling about it. The government that becomes destructive of liberty is itself lawfully open to destruction; "it is the right of the people to alter or abolish it."

Arguing from that standpoint alone one might easily infer that when the American government of 1951 jails a Communist, not for anything he has done, but only for what he has said or written, it becomes destructive of liberty and forfeits its right to the allegiance of the people.

But there is that matter of reason being left free to combat error, mentioned in the same speech. There is that matter of

"clear and present danger" at this moment embodied in the law of the land. A principle of government may be as clear as crystal, yet when it comes to applying that principle to a specific case, circumstances arise to cloud and obscure the business and touch off endless debate.

This point is also to be noted: the "clear and present danger" to which Holmes referred, is not a clear and present danger that the Communists, for instance, may win a majority to their way of thinking. The government has no right to prevent that, or even to try to prevent it. The clear and present danger must be danger that Communist talk will hinder Congress in doing what Congress has an unquestioned right to do.

So it all comes down to an estimation of the nature and extent of the danger. That estimate will rise in proportion as our fears rise, and will subside as our fears subside. If Tito's Yugoslavia were the only Communist country in the world, we should laugh at any attempt to pass special laws to prevent the preaching of communism in this country. There would be no clear and present danger, hence no excuse for interfering with the utmost freedom of speech. It is because Russia, a very powerful nation, and China, an immense nation, are both Communist that we admit the existence of peril whose magnitude justifies some limitation of expression of opinion.

The fact is that how free we can afford to be depends upon how scared we are. If we are not scared at all, we can be as free as the Declaration of Independence asserted we

should be. If we are somewhat scared, but nevertheless resolute—as the men who signed the Declaration were—we can still be free beyond anything possible in a nation frightened into hysteria.

The American doctrine was devised by brave men for brave men. If the men are still brave, the doctrine may be still good. But not otherwise.

Chapter III

FREEDOM OF CONSCIENCE IS FOR REASONABLE PEOPLE

IN 1669 a preacher in Massachusetts declared from the pulpit that "God sifted a whole nation that he might send choice grain over into this wilderness."[1] It is a rather arrogant assertion, especially in view of the fact that at the moment it was British policy to dump into America all rogues, vagabonds and "lewed and lasy fellowes" that the police could round up; but the Rev. William Stoughton was an arrogant man. In his capacity as a magistrate, as well as clergyman, he presided over the trials of the Salem "witches," and apparently he never repented of having sent nineteen persons to death through what to us seems rank superstition. The trial, and his remark about the sifting, are the only reasons why he is remembered now; but he nevertheless represented one facet of American character—the high estimate it places on conscience.

Perhaps Mr. Stoughton, like many another, mistook his

[1] Two hundred years later the poet, Longfellow, stepped it up. In *The Courtship of Miles Standish* he said, "God had sifted three kingdoms to find the wheat for this planting."

prejudice for his conscience; but even though in practice his ability to recognize one was doubtful, he accorded a very high value to conscience in theory. In this he agreed with all eminent Americans of his time. Indeed, he agreed with most eminent men of all western nations, for the question of freedom of conscience was exceedingly inflamed and sore. In 1951 the Treaty of Versailles is eleven years further in the past than the Treaty of Westphalia was in 1669; and Westphalia marked the end of a war so hideous that it had brought the people of Germany to cannibalism. Nothing since, not even the convulsions that we call the two World Wars, has quite matched the horror of the Thirty Years' War; and it was fought largely on a question of conscience.[2]

Less than ten years before Stoughton spoke, the restoration of Charles II had ended the Protectorate which had temporarily overthrown the British monarchy on a question of conscience. Twenty years after he spoke the English were to revolt again and depose James II on the same question. Fifty years before he spoke conscience had been the most important motive driving the Pilgrims to Massachusetts; and for generations afterward conscience was to throw upon these shores wave after wave of non-English settlers—

[2] This is not to be understood as an assertion that Wallenstein and Tilly, on one side, or Gustavus Adolphus and Mansfeld, on the other, were overburdened with conscientious scruples; but the armies they commanded were filled by men inflamed with religious zeal—augmented, it is true, by every scoundrel who saw in the war a chance to loot and who contributed largely to the general ruin, but in the main inspired by frenzy based on theological concepts.

Huguenots, Moravians, Waldensians, Scotch Covenanters, Mennonites, Jews, and many others.

Respect for the individual conscience is therefore deeply embedded in American thinking, and has played an important part in shaping American tradition. As dogma, it is characteristically Protestant; but it has strongly affected American Catholicism. Conscience unquestionably made Charles Carroll of Carrollton one of the signers of the Declaration of Independence. He was said to be the third richest man in America, and all his business, social, and political interests lay with the royalist party; but as a Catholic he could not practice his profession, the law, in his native colony of Maryland, and his bitter resentment of that affront to his conscience drove him into the Whig party. Conscience sent into the wilderness, and frequently to martyrdom, those missionary priests whose journeyings did much to explore and eventually subdue the continent. Respect for the individual conscience brought criticism from the narrow-minded even upon as great a man as Cardinal Gibbons, and got the enthusiastic Father Hecker, founder of the Paulists, into real difficulties.

This powerful tradition in American thinking is responsible for the first stipulation in the First Amendment with its interesting double-barreled negative: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." Congress is not only forbidden to encourage organized religion by an establishment; it is

equally firmly forbidden to discourage it. Congress shall do nothing about it.

This is the most complete and effective separation of Church and State ever written into organic law. Religion has been repudiated at other times and places; but repudiation implies some sort of relation. During the French and Russian revolutions vigorous efforts were made to uproot and destroy religion; and that involves not merely a relation, but a very intimate one. The Constitution of the United States was the first to deny any official relation whatever between Church and State.

All of the States eventually adopted the principle, but some, in attempting to go beyond its statement in the Federal Constitution, actually weakened it. In the early days several States adopted constitutions making it illegal for clergymen of any church to hold certain forms of public office. In a few, Maryland, for example, that provision has never been repealed. This asserts a measure of control of the churches by the State, which is a definite relation and, in the opinion of such men as Jefferson, a pernicious one, for it is one form of tyranny over the mind of man.

In the course of a hundred and fifty years the principle of separation of Church and State has become so well established that the communion which once was our nearest approach to an American State Church, the Episcopalian, is today a firm supporter of the doctrine; and James Cardinal Gibbons, when he was the head of the Roman hierarchy in this country, admitted that as a practical expedient it

had worked well. If neither the Episcopal, formerly Angelican, communion, nor the Roman Catholic is disposed to attack it, the principle of separation of Church and State is hardly in serious danger from any representative of organized religion.

But it is possible for the government to undertake to bind the consciences of individuals without setting up a State Church, and recently there have been many efforts to do just that. A conspicuous example is the rough treatment accorded Jehovah's Witnesses, a sect that has revived some of the tenets of Quietism, the religious movement that harassed the French government in the time of Louis XIV.[3] The American government, like that of the Sun King, vehemently denied any wish to interfere with the religious practices of the sect, but claimed the right to discipline it for certain of its social practices, such as teaching children to refuse to salute the flag or repeat the loyalty oath.

In 1801, immediately after the disappearance of the Sedition Laws,[4] this peculiarity of conduct would hardly have drawn penalties of the law upon the sect; but it has been a long time since 1801, and conditions have changed. For

[3] Probably few Jehovah's Witnesses ever heard of Fénelon or Madame Guyon, but the Quietest doctrine that the rule of conscience supersedes every other allegiance is prominent in their system.

[4] They were enacted like our modern rent-control legislation for a period of two years only, and were not repealed, but allowed to expire by limitation. It was the theory of Jefferson that, being clearly in violation of the Constitution, they had never had the force of law anyhow, so to repeal them would have been in some sense an acknowledgment that they were at one time real law. Chief Justice Marshall invalidated this theory when he claimed and secured for the Supreme Court the exclusive right to pass on the constitutionality of any law.

one thing, the country is far more crowded than it was then, and the effects of social conduct are more apparent in a crowded than in a thinly-settled country. For another, literacy is more widespread and communication much more rapid. Thus the force of example is exerted on more people much more quickly than it was in Jefferson's day.

For these reasons some people believe in all sincerity that conduct that might have been ignored in 1801 constitutes, a hundred and fifty years later, that "clear and present danger" mentioned by the Supreme Court; not that there has been any change in the moral quality of the conduct but merely because conditions have changed.

This argument cannot be dismissed as nonsensical. It is sustained by Justice Holmes' observation of the difference between shouting "Fire!" in an open field and shouting the same word in a crowded theater. The old maxim, "circumstances alter cases," is sound, and conduct that is clearly damaging to public order or public morals cannot be tolerated simply because it is done conscientiously. No right is more absolutely guaranteed than that of the people "peaceably to assemble and petition the Government for a redress of grievances," but when the sect of the Doukhobors, assembling for that very purpose, chose to assemble stark naked, the police swept down upon them hurriedly and the public held that the police were right.

Several religious sects, Jehovah's Witnesses among them, are conscientious objectors to military service, and since that objection is based on one of the Ten Commandments,

"Thou shalt not kill," it has given law-enforcement officers endless trouble. The lawmakers, also, have been so uneasy on the point that the legal status of the conscientious objector never has been exactly defined. The military authorities customarily try to reach a compromise by assigning an objector to service as a stretcher-bearer, or in some other capacity in which he may serve without being required to kill, but that arrangement is within their discretion.

In most of the cases involving Jehovah's Witnesses, however, the offense has been, not in refusing to bear arms, but in refusing to conform to some ceremonial prescribed to signalize loyalty. In many places laws have been enacted requiring school children, on certain occasions, to render a salute to the flag and to recite a formula pledging allegiance to it. This members of the sect have forbidden their children to do on the ground that it smacks of idolatry, and some of them have suffered the penalties of the law as a result.

Infliction of these penalties unquestionably represents a change in the attitude of the American public. In the very early days the necessity of forcing an outward conformity was assumed by some leaders and there was much agitation over such questions as, by what title should the President of the United States be addressed? John Adams, in particular, worried over it a great deal, and especially over the correct title of the Vice-President, which was the office he held. If the President were "His Excellency," or "His Serene Highness," what should the Vice-President be called? But the thing was reduced to absurdity when some ribald delegate,

observing that Adams was inclined to stoutness, rather cruelly suggested the title, "His Rotundity." In the end, nothing was done officially, but by common consent simple "Mr. President" became the correct form of address for the chief magistrate of the United States.

Nor was any ceremonial prescribed for social affairs given or attended by the President. All that was left to the good sense of the man in office. George Washington was something of a stickler for etiquette and he made the President's functions very formal indeed. Adams followed him in that, but Jefferson reversed the custom, substituting what he called "the rule of *pêle-mêle*," that is to say, no rigid order of precedence.

Little by little Jefferson, in turn, was reversed, until today hostesses in Washington give much time and attention to the correct seating of guests at dinner according to their official rank, and the State Department maintains a Protocol Officer to pass judgment on such matters. But this is all custom. The law has nothing to say on the subject.

Except in the army and navy the law had little to say about ceremonies anywhere until after the war of 1917-1918, when the presence of large numbers of German sympathizers in the country made nervous people very touchy on the subject of loyalty. The required salute to the flag and the pledge of loyalty by school children became widespread only after that war. But those who favored such innovations were not consciously opposing the old system; their argument was that the old republican simplicity, while it is all

very well for a small, poor, scattered nation is out of place in a vast, rich, crowded one that force of circumstances has not only made powerful, but has driven to become warlike. They urge that while the republic of Jefferson could do without ritual, it does not necessarily follow that the republic of Truman can also do without it. The republic of Lincoln could be careless of forms and ceremonies. In 1864 General Sherman, having captured the city of Savannah, was asked whether the city's church congregations should be permitted to continue to pray for President Jefferson Davis and the Confederacy. "Yes," said the General, "Jeff Davis and the devil both need it." But that doesn't prove that the republic of Truman can be so heedless of form and ceremony.

As regards some aspects of our national life the argument that times have changed is certainly sound. Jefferson managed very well with practically no army, and Lincoln fought a tremendous war with one that at no time mustered more than half a million men; but by 1951 it was clear that the United States stood in mortal danger without a vast military establishment—counting Army, Navy, and Air Force, several million men. Large areas and great riches cannot be protected without strong defensive forces. Ritual is probably indispensable and certainly helpful in maintaining discipline in a military force. In battle, victory hangs upon instant, unquestioning obedience to the word of command, and the habit of obedience must be established before the troops go into battle. In establishing this habit nothing is more effective than ritual rigidly repeated over a long training period.

Standing at attention and saluting doesn't kill any enemies, but it does help the recruit become an effective soldier, because it makes him respond automatically to commands even when his conscious mind is under terrific stress.

But it is not so certain that the whole population should be trained to respect forms and ceremonies. Too much obedience by the civilian population to any sort of authority was one thing that twice betrayed the Germans into following evil leaders even when it was plain that they were leading to ruin.

Too much respect for forms and ceremonies should not be exacted even by a vast, rich and warlike empire. At least that was the opinion of Trajan, and as he was the emperor under whom the Roman Empire reached its widest extent, his opinion carries weight. The fact is recorded by Pliny the Younger, who was a sort of trouble-shooter sent by Trajan to clean up the province of Bythinia, where governmental corruption had become scandalous. The ordinary crooks Pliny dealt with in short order, but presently a case came up that staggered him. One Dion, a contractor, had finished a public building and was ready to turn it over when accusers came to Pliny saying that Dion had not only juggled the accounts so that he was getting more than was his due, but had also insulted the emperor by burying two bodies not far from Trajan's statue.

Pliny knew well enough how to deal with swindling contractors, for he had handled many; but this other charge was

too much for him. It is clear that he considered an act of impiety far more serious than mere grafting, so he referred the case to the emperor himself, asking for instructions. They were short and to the point. Examine Dion's books with the utmost care, wrote Trajan, and if there proved to be anything wrong with them, let him have the full rigor of the law; but as for the alleged insult to the statue, forget it. That was a kind of charge, said Trajan, "to which I would by no means give any attention, tho' there were ever so many instances of the same kind."

Perhaps Trajan was wrong, but this much is sure—the letter has been remembered to his credit for nearly two thousand years, so it has unquestionably done him honor far greater than the damage done by any insult that Dion may have, or could have, contrived.

More than that, he had a very practical consideration in mind. A great and powerful ruler must protect his dignity. That is true beyond a doubt, because his dignity is an important part of his power; but to be too scrupulous about it doesn't protect it. On the contrary, too much care about trifles is undignified.

There is something ridiculous in the idea that this mighty republic, wealthiest and most powerful of all nations, trembles for its fate if ten-year-olds fail to salute its flag. It reminds one of the elephant, terrified at the approach of a mouse. It is not consonant with the dignity of a great government to pay attention to such things, "tho' there were ever

so many instances of the same kind," as Trajan said. In fact, it reduces that dignity far more than it could be reduced by the refusal of small boys and girls to behave properly.

It must be remembered that the United States of America has never exacted a salute to the flag from any but armed men under military discipline. The laws compelling school children to salute were all passed by local or State authorities, not by Congress. But what we are considering here is the attitude of the people, not that of Congress and the officers of state. It is the attitude of the people that eventually will determine the attitude of the law. If the people have lost their faith in old-style republican simplicity, the law cannot uphold it for long.

So never mind Congress, or the President, or the Cabinet. The question is, how is a private citizen to decide where to draw the line? Exactly what forcing of the conscience should you and I approve, and what should we disapprove?

To say, none at all, is not an answer. When masses of people live crowded together, as they do in great cities, a certain amount of social discipline is necessary to prevent their trampling each other to death. We cannot permit every man's conscience to be his guide in every phase of life.

For instance, in most cities the law requires every householder to keep the sidewalk clear in front of his house. Let us suppose that snow falls on Saturday night and the householder's conscience forbids him to work on Sunday; nevertheless, he must clean that sidewalk. The reason is that his neighbor also has a conscience, which may require him to

go to church on Sunday, and a blocked sidewalk would impede his passage. Freedom of conscience is a right, but the law admits no justice in freeing one man's conscience at the cost of binding that of his neighbor.

The principle in the case of the snow-shoveler is similar to that adopted by the Supreme Court with reference to freedom of speech. The existence of "a clear and present danger" suspends the right. So the attainment of "a clear and present" public good may justify the government in compelling a man to do things of which he disapproves, such as shoveling snow, or bearing arms in time of war, or paying taxes to support public schools, public libraries, and public museums.

Where Americans tend to overstep the line is in assuming the right to bind a man's conscience, not for the public good, but for what they conceive to be his own good. This is flatly contrary to essential American doctrine, and indeed to the doctrine of all liberty-loving people. Richard Rumbold was hanged in 1685, more than a century before the Constitution of the United States was written, but the words spoken from the scaffold by the old fighter of kings were quoted with enthusiasm by Thomas Jefferson: "I never could believe that Providence had sent a few men into the world, ready booted and spurred to ride, and millions ready saddled and bridled to be ridden." Rumbold and Jefferson alike held this to be true in matters of conscience even more than in matters of politics.

Yet many an American who assents to that when ques-

tioned forgets it when opportunity offers to compel some fellowman to conform to his views of what is right. Nobody in his senses really believes that the United States government can be imperiled by stubborn kindergarteners; the salute to the flag is demanded, not to protect the nation, but to make the children better citizens. It is for their own good—or so say those who advocate the practice.

But this is exceedingly dangerous ground. It confers upon the law the power of a parent or guardian to compel for their own good, children too young to be capable of rational decisions. In so doing it must compel the parents to step aside. But the very foundation of the American revolt against the British crown was the principle that adult Americans were no longer in tutelage and were capable of deciding for themselves better than the British Parliament, or any other authority, could decide for them. If we should now substitute Congress for Parliament, allowing it to bind the conscience of any man, not for any "clear and present" public good, but for his own private good, we should be not merely altering, but reversing our attitude.

Many religious sects do submit the cure of souls in matters of faith and dogma to persons ordained for that duty; but none intrusts the high office to a man whose time is given for the most part to other matters. A priest is granted no authority in matters of conscience until he has been withdrawn and separated from all worldly ambitions and interests; the suggestion that this sacred duty may be turned into

a part-time job for a politician is, if anything, more shocking to members of ritualistic churches than to others.

We have, then, two points on which the essential American doctrine is clear. To compel a man to act contrary to his own opinion of what is right may be justified if action is clearly necessary for the public good. But to compel him to act when no such necessity is apparent is not justifiable, even though action may be for his own private good.

Both the courts and the lawmaking bodies still accept this in principle, but there is a wide area in which its application is uncertain; so many things are partly public and partly private. Drunkenness, for example, is unquestionably harmful to the drunkard; it is also both annoying and dangerous to the public. It has long been admitted, even by the most extreme liberty-lovers, that a man may be forcibly restrained from being drunk in a public place. About that there is no debate.

But about thirty years ago it was successfully argued that the best way to promote sobriety, certainly a clear and present public good, was to make it impossible for the drunkard to obtain liquor, which meant, in practice, making it impossible for anyone to get it. To accomplish this the Constitution was amended for the eighteenth time and the manufacture and sale of alcoholic beverages prohibited.

Unfortunately, it did not work satisfactorily. Temperate and law-abiding people were deprived of alcoholic beverages, but that was not what was intended; the law was

enacted to restrain the drunken, and it did not restrain them. They were supplied with liquor from illegal sources, and it eventually became evident that it would take an army of agents to stop up all, or nearly all, those sources. So the attempt was abandoned and the Constitution amended for the twenty-first time to put the liquor traffic back about where it had been.

But the failure of prohibition to prohibit was what caused its abandonment. To this day many good and sincere people see nothing wrong with the principle on which it was based. They still believe that in this instance the public interest overrides the private right, and if they could devise a form of prohibition that would do the work, they would vote for it.

Others, just as good and just as sincere, hold the contrary view. They believe that the public interest was not sufficiently clear and present to justify the very radical invasion of individual liberty involved in telling a man what he shall not drink, even in the privacy of his own home. Therefore they would have opposed prohibition even if it had worked.

There is no flat and final answer to such questions. It is all a matter of judgment. Individual liberty should not be invaded; nobody challenges that principle. But there is a point at which the public interest becomes paramount; nobody challenges that principle, either. The art of government is to find the exact point at which the public interest takes precedence, and to keep the law behind that point.

It is a tricky business that can never be managed to the

satisfaction of everyone. The best we can hope for is to satisfy the larger number, not altogether, for that would be to disregard the smaller number which, said Jefferson, would be oppression, but far enough to keep the larger number willing to support the government, and the smaller number unwilling to resort to violence against it.

This is unsatisfactory to people who want a "Yes-or-No" answer to every question; but in government it is seldom possible to give a straight yes or no to any important question. Government deals with people, and people are not logical entities; they are living organisms and a living organism never develops along strictly logical lines. For that reason, remorseless logic is certain to lead to bad government, because it cuts across illogical human nature.

One of the objects of the Constitution is to "promote the general welfare." Logically, anything that promotes individual welfare must also promote the general welfare and is therefore a legitimate subject of governmental action. But another object of the same Constitution is to "secure the blessings of liberty to ourselves and our posterity." The blessings of liberty cannot be secured by constant restriction of liberty. Somewhere, somehow, there must be a compromise, and Americans have found it in holding restrictions to those things that unquestionably promote the general, but not necessarily the individual welfare.

Even this has not worked perfectly. Some things that were expected to promote the general welfare have done nothing of the sort. In the opinion of a majority, prohibition

is a case of that kind. Some things that have promoted the general welfare in one section of the country have damaged it in another section. The protective tariff is a case of that kind; the damage to the South was so serious that it furnished the excuse, if not the reason, for Nullification in 1832 and for Secession in 1861. Some things that apparently promoted the general welfare for a time eventually became intolerable and had to be abolished. Negro slavery is a case of that kind; in the end it had to be abolished even at the price of a terrific civil war.

On the other hand, sometimes the general welfare can be promoted only by direct action that promotes first the welfare of the individual. Compulsory education at public expense is a case of that kind. It was denounced and in some places delayed for many years on the ground that it taxes bachelors somewhat, and rich men heavily, whether they are married or single, for the individual welfare of a poor man's many children. But it is so plainly to the advantage of the state to have a voting population all of whom can read that this objection was overruled.

Note well, however, that it was overruled, not denied. It is, in fact, unjust to tax one man for the benefit of another man's children; but that injustice is trifling by comparison with the vast injustice of requiring a man to vote intelligently when he can't read.

After the great financial panic of 1929 the economic system of this country was so badly disarranged that millions

of men who were healthy, strong, and willing could not find work by which to support themselves and their families. Things went from bad to worse, until, in the early part of of 1933, every bank in the country closed its doors. The government thereupon adopted the policy of laying heavy taxes on those who had any money left, and of borrowing (which meant more taxes to pay the interest) in order to start great public works that would furnish employment and so keep the people alive.

It cannot be denied that this was taxing one man for the individual benefit of another. But there was a clear and present public good to be attained, namely, to keep the population alive, and not merely alive but strong enough and spirited enough to do the kind of work that our civilization requires. This purpose overrode the injustice of taking money wherever it could be found, so the policy was approved by the majority.

As a matter of fact, the policy itself was approved by nearly everybody. Some people thought it was badly administered, and opposed the party in power on that account; but nobody argued—at least in public—that it would be wise, or even sane, for the government to let millions starve to death rather than lay taxes on those who had money.

To sum up, the essential American doctrine regarding freedom of conscience and social discipline rests, not upon rigid logic, but upon what the Supreme Court described as "the rule of reason." A certain degree of social discipline is

indispensable in any nation, and as the nation grows larger and more crowded, discipline becomes more, not less, important. The question is not one of its abolition; nor is it one of its extension until it becomes totalitarianism. The question is, What is indispensable? There is the line at which the power of the government should halt. If it does not halt voluntarily, it should be halted by the people, so it is urgently necessary that every man should make up his own mind about this line.

To some readers this may seem vague, but it is not. It is precise. The American system of government is admittedly experimental, even after a hundred and sixty-two years of successful operation, for every time circumstances are altered the system is subjected to a new test. But it is the result of the experiment that is uncertain; its conditions are determined and well known. Only the future can reveal what will come out of our political retorts and test tubes after the heat of experience has been applied to them; but we know exactly what we are supposed to put in, under the original American recipe.

The first and absolutely essential ingredient is awareness on the part of the people. It was assumed by the founders of this republic that every man has, or may readily acquire, a very clear idea of where liberty ends and oppression begins. If the people are incapable of forming such an idea, it is nonsense to talk about self-government. Granted that the people are capable of being confused by smart demagogues

—"You can fool all of the people some of the time, and you can fool some of the people all of the time," even Lincoln admitted—it is the basis of our theory of government that they will eventually emerge from that confusion—"but you can't fool all of the people all of the time." If this is not true, then democratic government is bound to fail, soon or late.

So in this matter of freedom of conscience and social discipline, if more than half of the voters make up their minds that at such-and-such a point government must stop, at that point government will stop as soon as the people's determination becomes known.

For theirs is the final decision. The Senate and the House of Representatives write into the statutes what they think the law ought to be. The Chief Justice of the United States and his eight Associates, taking into consideration the will of Congress, constitutional limitations, and substantial justice, announce what the law is. The President and his Cabinet, guided by Congress and the Supreme Court, try to make it stick. But the people, that is to say, you and I and the millions of others who go to the polls on election day, alone have the right and the power to say what the law shall be hereafter.

Of course we cannot arrange the exact wording of the various laws; that is why we have legislators and judges. But we can and we do determine the great principles on which the law is based, or we determine them when we

know what we want. If we are uncertain or unreasonable, we may be sure that the laws will also be uncertain and unreasonable, if not immediately, then soon, all too soon. "The will of the majority . . . to be rightful, must be reasonable"; but no man's will is reasonable when he is uncertain of his own rights.

Chapter IV

FREE ENTERPRISE IS FOR HONEST PEOPLE

JOHN ADAMS and Thomas Jefferson fell out[1] and for years would have no dealings with each other. During the quarrel Adams picked up and repeated what Jefferson's enemies considered a sneer at him. It was an allegation that the Declaration of Independence really was not so much of an achievement because there was nothing original in it. Jefferson, to the astonishment of his critics, instantly admitted it; he had made every effort, he said, to avoid putting anything original in the Declaration because he understood that his task was to write, not his own opinion, but that of the country; therefore he inserted nothing that was not the general opinion of thinking Americans.

However, he did insert one phrase that was, if not original, yet a modification of the generally accepted model. Many years before 1776 John Locke had defined the inalienable

[1] But, being honorable men both, they told no unpardonable lies about each other, even in the heat of anger, so at last the difference was patched up and they ended their long lives the best of good friends.

rights of man as "life, liberty and property." Jefferson struck out "property" and substituted "the pursuit of happiness."

This was no accident. Jefferson was well aware that he was writing a historical document. He weighed and measured every phrase and every word that went into it. Then when he had finished, the other members of the committee appointed to draft the Declaration, Benjamin Franklin, John Adams, Robert R. Livingston and Roger Sherman, went over it line by line. They suggested, Adams and Franklin especially, several changes in the wording which were made. All these men were familiar with Locke's three rights and it is beyond belief that they did not notice that Jefferson had altered one of them. "The pursuit of happiness" is part of the American doctrine, not by chance, but because the men who framed that doctrine preferred it to the one word "property."

Exactly what they meant by that substitution has been the subject of much debate in the years that have followed;[2] but it is clear that the framers of the Declaration were not content to describe the defense of property rights as one of the primary duties of government. They never denied that

[2] The prudent reader will not accept what follows in these pages as authoritative, but will examine the debate for himself. He will find the various points of view well summed up in Nock's, Chinard's and Malone's biographies of Jefferson; in Koch's *Philosophy of Thomas Jefferson;* in Chinard's *Honest John Adams;* and, of course, in Becker's invaluable *The Declaration of Independence.* Boyd is the authority on the text of the document and all historians from Bancroft to Beard have had ideas on the subject; but the books mentioned above give the substance of the various arguments.

the right to hold property is essential to the pursuit of happiness; but they would not admit that it comprises the whole of that pursuit.

This demolishes the contentions of the extremists on both sides. The Founding Fathers were careful not to put property rights ahead of human rights; to avoid doing so they tampered with Locke's categories, which was going far in the eighteenth century when Locke was regarded as the supreme authority on government. But, on the other hand, nowhere did they assert, or even suggest, that the right to acquire and hold property is not a human right.

In fact, when they added the Bill of Rights to the Constitution—an addition made necessary by the feeling of the people that their human rights were not sufficiently protected in the original document—they included property. "No person," says the Fifth Amendment, "shall . . . be deprived of life, liberty, or property, without due process of law."

If the phrase "pursuit of happiness" has given rise to much argument, there has been ten times as much over exactly what the phrase "due process of law" means; but whatever it means, the amendment extends to property exactly the same protection it offers to life and liberty. It is hard to see how property could be more firmly established as a human right. As if to emphasize this the amendment has another clause respecting it—"nor shall private property be taken for public use without just compensation."

But this was in 1791[3] and a great deal has happened since. For one thing, the basis of property itself has changed, for at the time the Constitution was adopted men regarded basic wealth as land, which they called "real estate," the inference being that any other kind of estate was to some degree questionable. Today it is rare for any great fortune to be invested mainly in land; the Astor estate is an exception and there are a few other large holdings, especially in the West and Southwest, but "property" usually means other things than land, because the bulk of present-day income doesn't come from land. In 1949 out of a total national income of 216 billions, only 17 billions came from farms and 11 billions from other forms of real estate—that is to say, 87 per cent of income was derived from other sources.

To argue that a change in the nature of property makes no difference in the public attitude toward property is nonsense. It can make a very great difference, for it makes a difference in the position of the property owner. Land, if it is to yield a steady and satisfactory income, requires close and unremitting attention; this is true even of city property, which must be kept rented, kept in repair, and developed so as to be put to the best possible use, and in cities the best possible use is constantly changing.

But if it is true of city property it is doubly true of farm

[3] To get the dates straight, here is the order of events: the Constitution was written in 1787, ratified by the ninth State in 1788, declared in force in March, 1789; the Bill of Rights was submitted to the States in September of the same year, and finally ratified December 15, 1791.

property. A crop, once planted, must be carried through to the end of the season. If a farmer has chosen the wrong crop in the spring, he cannot change to some other in midsummer. Most farm crops require close attention throughout the growing season and all must be harvested at the proper time, for failure to do so means total loss. There is, therefore, a limit to the acreage one man can supervise. Very shrewd and energetic farmers have managed profitably estates comprising thousands of acres and employing hundreds of men; but there is no case on record of any man's having successfully managed millions of acres employing tens of thousands of men. Lumbering is different; lumbering is essentially a harvesting operation, which one man can manage on a very large scale. But forestry, which involves growing as well as harvesting, has limits, wider than agriculture, yet definite.

So there is a limit to the amount of land that can profitably be held by a single owner. The Russians are now making an effort to disprove this rule. Their collective farms are based on the principle of the industrial corporation which divides authority into segments each small enough to be handled by one manager, who reports to a superintendent, who reports to the state, the sole proprietor of the land. Perhaps the Russians will succeed eventually, but they have not succeeded thus far. In this country we have had corporative farming, some of which has been fairly successful, but not successful enough to raise any great fear of anything like a monopoly of land.

The landowner, in short, is still pretty much responsible for the management and condition of his property, as he was when the Constitution was established.

This is not true of other forms of property. A single share in a great corporation carries no responsibility. There are several corporations in the United States whose stockholders number hundreds of thousands. To suggest that a man who owns five shares of American Telephone & Telegraph, which in 1951 acquired its millionth stockholder, has any responsibility for management of the company is absurd. For one thing, ownership of the company is never the same two days in succession, for the stock is bought and sold on the Stock Exchange constantly.

But since ownership of this sort of property is separated from responsibility, there is no natural limit to its concentration. For a man to bring a million acres under profitable cultivation is all but impossible; but it is quite feasible for him to own a million shares of stock in hundreds of different companies, each of which is paying dividends.

Thus when the basic form of property changed from land to securities, the possibility of monopoly changed from an extremely remote contingency to one close enough to make people uneasy. The Founding Fathers saw this country as consisting primarily of a very large number of landowners, with only enough traders and artisans to serve the needs of the people who held the land. They believed that the landowners would be very numerous, because the country was very large and the amount of land that one man

could manage profitably was limited. They did not foresee that the industrial revolution would shift the basis of property from land to paper, which it is possible for one man to hold in almost unlimited amounts. Therefore, in extending to property the same guarantees they gave to life and liberty, they believed they were protecting the great mass of the people.

In that they were deceived. The machine age has made it possible for this country—and the world—to support an enormously greater population than it could have fed, clothed, and housed when we depended on handicrafts, not on factories. Most of these people are without property. Even in this country, where the people who own one or more shares of stock, or bonds, number millions, those who do not own even one number more millions.

The possibility of monopoly has come much closer since 1787. Extremists, indeed, argue that it is already upon us; they offer statistics showing that control of American industry, which is pretty close to ownership of America, is already held by no more than sixty families[4] which, in a country of this size, is virtually monopoly. In several industries one company has come so close to owning the entire industry that Congress has enacted antimonopoly laws, such as the Sherman and Clayton antitrust acts, to curb them. It is reasonable, then, to ask whether this condition, which did not exist and was not foreseen in 1787, undermines the

[4] The reader should not be too quick to take this for gospel, however. The evidence regarding the sixty families is pretty shaky in several respects.

doctrine of the framers of the Constitution that property should be protected in the same measure as life and liberty.

Another condition has arisen which is as important as, and to some people even worse than, the tendency to monopoly. It is the restriction of opportunity, which is to say the increasing difficulty that a man encounters in setting up in business for himself. This is a direct result of the transfer from the hand-made to the machine-made. This transfer makes it possible for a workman to turn out an enormously greater quantity of goods than he could before, but it reduces the importance of his own skill and strength in producing goods. Society as a whole is better off for having more goods, but the individual workman is not better off for having the importance of his strength and skill reduced. Pessimists say that on the whole he is worse off, and extreme pessimists, such as Karl Marx, claim that he is so much worse off that his condition is bound to become intolerable and he will revolt against the system.

So far, however, it has not worked out that way. Marx published the first volume of his great book, *Das Kapital*, in 1867, not quite a hundred years ago; but to date the only country in which the workers have staged a determined and successful revolt is the only great country which had not changed over from the hand-made to the machine-made, Russia. In all those that have accepted the machine age, while there has been trouble, sometimes breaking out into open fighting, somehow a compromise has been arranged. In three,

Germany, Italy, and Japan, the compromise was reached only after a curious progression. First, the workers were beaten down and reduced to virtual slavery; then the system found itself, like the slave system of the Confederacy in this country, in an ever-sharpening economic conflict with the systems of the free countries; war and defeat followed and, as the century reached its halfway mark, an adjustment was being worked out.

In Russia the process was reversed, but the results seem much the same. In Germany, Italy, and Japan the power of the state beat down the workers; in Russia the power of the workers beat down the state. In all four countries the right to hold private property almost disappeared, informally, by taxation and confiscation in the three Axis countries, formally and as a matter of principle in Russia; but in all four countries when private property disappeared, so did the individual freedom of the workers.

In this country it has become increasingly difficult for a man to go into business for himself, but in Russia it is impossible except by the permission and under the direction of the state. In Russia a man cannot even choose the kind of work he will do for a living, unless his choice meets with the approval of the government. In this country if a man starts life working with his hands it is difficult for him to escape into any other way of life; but in Russia it is not only impossible, it is illegal for him to try, since theoretically no other way of life is permitted. Actually, there is a class of

rich parasites in Russia, but men get into that class by wangling soft jobs with the government, not by earning, stealing, or inheriting money, as they do here.

So far, American workers have not been driven to desperation by the decrease in the relative importance of a man's strength and skill. They have felt it, to be sure. When Duncan Phyfe built a table—he set up his shop in New York in 1792—the skill with which he handled drawknife, plane and chisel made all the difference in the appearance of the table. A piece of furniture made by Phyfe could be distinguished instantly from one made by any of nine-tenths of his competitors.

Today, once the table has been designed and the machines to produce it properly set, anybody with sense enough to feed pieces of wood into the machine and take them out again, can turn out splendid furniture. This makes it, first, less worth while to develop such skill and strength as Duncan Phyfe had, and, second, because it depends so little on his own efforts a man cannot take nearly as much satisfaction in his work.

This is bad, but there are compensations. When furniture was made by hand, the maker had to charge so much for a fine piece that only the rich could afford to buy it. But any man with a fairly steady job can buy machine-made furniture and today every steady-going mechanic has pieces in his house that would have cost his great-grandfather half a year's wages. For another thing, labor-saving machinery has reduced the working day so much that the man who cannot

get much satisfaction out of his job has leisure in which to do things that do give him satisfaction. So here we have not as yet either abolished private property or enslaved the worker.

When one has seen an event of a particular kind promptly followed by another event of a particular kind four times, in four countries with widely different cultures, it is reasonable to suppose that there is a necessary connection between those two events. Between 1917 and 1933—that is, within sixteen years—the world has seen the denial of the right to hold private property swiftly followed by denial of the liberty of the worker in Germany, Italy, Japan, and Russia. To the observer, then, it seems that property rights and individual freedom are somehow bound together; and if that is true, the Founding Fathers of this republic knew what they were about when they gave to property the same protection they gave to liberty.

Nevertheless, although they may be bound together, they are certainly not the same. That is plain, because they can destroy each other. When a factory owner spends his money to hire spies to break up labor unions, and thugs to beat up organizers, property is being used to destroy liberty. When a paralyzing strike is called because someone doesn't like a foreman's manners, or for some other frivolous pretext, liberty is being used to destroy property. Then if they are bound together, yet not identical, it follows that both must rest on some common base, and it is the destruction of the base that brings them down together.

That base is nothing that a man can see with a microscope,

or prove by logic, or demonstrate by geometry. It is an assumption, and one that is often false. It is the assumption on my part that you are just about as honest as I am, and on it rests the whole enormous fabric of our political, social, and economic systems. Incidentally, it is because it is so frequently false that we have courts, jails, lawyers, and the whole system of the administration of justice.

If you doubt this, consider what would happen if most checks were bad. Never a day passes but some rascal, somewhere, cashes a bad check; but most checks are good. If they were not, business would collapse within twenty-four hours, for nobody would accept a check until he had been assured by the bank that it was good and the delay in getting that assurance would snarl business hopelessly.

On June 30, 1948, all the money—that is, bills and coins—in circulation in the United States amounted to less than 30 billion dollars, yet in that year the banks of New York City alone took in and paid out 375 billions, which would seem to indicate that every dollar in the country passed through those banks twelve and a half times. It didn't, of course. Nearly all the money involved in bank clearings consisted of checks, or some other kind of paper. They were accepted on the theory that most of the people who drew the paper were honest; and so, indeed, they were.

An American housewife goes marketing and the merchant is glad to let her put anything in the place in her basket and carry it away in exchange for a piece of paper printed in green ink on one side and black on the other. The only thing

that gives the scrap of paper any value whatever is the merchant's assumption that the United States government is honest enough to make it good on demand. Without that confidence, it would have no more value than a similar bill issued by the Confederate States of America.

Confidence is to property what air is to human life. Without it property could not exist. An acre of land, indeed, is permanent. Nobody can carry it away, and even an atomic bomb can remove only its top layer. But possession and use of that acre, which is to say its existence as property, depends upon possession of a deed, which is merely a piece of paper attested by the proper officials and recorded in the proper archives. Let the archives be destroyed and even property in land may be wiped out. More than eighty years ago the Federal General Sherman burned many of the courthouses in the Southern States, destroying the records of the Registers of Deeds; and land ownership was thrown into a snarl that in some cases has not been straightened out to this day.

It was the assumption of the men who framed the Constitution that the American people could be trusted to maintain sufficient confidence in each other to make the operation of government at least tolerable. It was the assumption of Karl Marx that no people can be trusted to do anything of the kind. On the contrary, he maintained that warfare between the classes is inevitable, and he supported his prediction with impeccable logic. But human beings are not logical; eighty-odd years after publication of *Das Kapital* and more

than a hundred after the *Communist Manifesto*, in which the inevitable class war was first proclaimed, the assumption of the Constitution makers still holds good.

We indulge in a great deal of loose talk in this country, and orators are continually telling audiences of workmen that the bosses thirst for their hearts' blood, and telling audiences of employers that the workmen are ready to set up the guillotine and cut off the head of every man who wears a white collar, but most of us recognize it for nothing but loose talk. Certainly there is crooked work going on, plenty of it, all the time. There are both bosses and labor leaders who have richly earned the penitentiary; nobody can deny it, but that is a very different thing from actual class warfare.

Yet what has been is not necessarily what will continue to be. Marx could be right. Class warfare has broken out and raged hideously within our own time in Italy, in Germany, in Russia, in Spain. All that is necessary to produce it in this country is for one large group of Americans to become thoroughly convinced that another group is determined to employ its power, whether of liberty or of property, to wipe out the rights of all other groups, regardless of reason, justice, or anything else.

That some group may become so convinced is by no means unimaginable, because we face a condition that did not exist when the Constitution was written. It is a condition brought about by the advance of science and technology, through enormous concentrations of power.

When Thomas Jefferson was a boy the most powerful

unit of energy, except for a water wheel, that could be applied to a machine was the strength of a horse. To be sure, Siam had elephants and Holland giant windmills stronger than a horse, but in general the statement is true. The strength of a horse had also been available when Homer was a boy, surely twenty-five, perhaps thirty centuries before the American; but a century and a quarter after Jefferson's death the old water wheel had become a turbo-generator capable of delivering twenty-five thousand horsepower and the horse had become a Diesel locomotive capable of drawing trains of sixteen Pullmans at eighty miles an hour.

What has happened in mechanics has happened in all other forms of power. The British Empire, as strong as any in the world at the time, had great difficulty in maintaining an army of twenty thousand men in America during the Revolution; we put five million men into Europe during World War II. The first Bank of the United States started with an authorized capital of fifty million dollars in 1791; the International Bank for Reconstruction and Development (commonly known as World Bank) began with an authorized capital of ten billions and a subscribed capital of more than eight billions in 1944. In Jefferson's administration it is doubtful that there was a single private employer in the country with a thousand men on his payroll; today a corporation with fifty thousand employes is comparatively small. When this republic began, a charge of black gunpowder was the strongest force of demolition known; now we have the atomic bomb.

When power is highly concentrated—any kind of power,

military, mechanical, political, or economic—the temptation to misuse it is great. By comparison with the situation of a hundred and fifty years ago, all kinds of power are highly, very highly, concentrated in the United States today. The temptation to misuse it is correspondingly great, so the precautions against its misuse must be numerous and rigid.

This creates a situation that perplexes rulers and lawmakers, creates endless disputes, and throws a strain on the political genius of the people. If no precautions are taken against the abuse of power, we shall inevitably run into fascism. If too many precautions are taken we shall prevent not only the abuse, but even the use of power in private hands and inevitably run into communism.

There is a third complication that we are slowly beginning to realize and that appalls conservatives perhaps more than any other. With all our enormous concentrations of power, there are tasks, urgently necessary tasks, that are simply too big to be handled by private enterprise, no matter how big, and no matter how free.

A conspicuous instance was the development of the Tennessee Valley. The investment in that job was eight hundred millions. The area affected includes parts of seven States. The operations involved comprise not merely gigantic engineering and construction, but power production, water and land transportation, chemistry, agriculture, forestry, hygiene and sanitation, marketing, sociology, and education. As it turned out, this was a good investment; taxable values in the

area have already increased by approximately one-third more than we spent on the work, and the end is not yet.

But the strongest bank in the United States—excluding government institutions—the biggest corporation in the United States, is not able to put eight hundred millions into any single investment, no matter how attractive. Only the government can stand such a strain. No private organization in the United States is competent to operate in so many and such diverse fields as are entered by the Tennessee Valley Authority; yet each of its operations supports the others and is necessary to successful realization of the project as a whole.

And the project as a whole was necessary. Repeated floods were slowly ruining the whole valley as agricultural land. The immense power of the river was going to waste. Its usefulness as a waterway for the cheap transportation of heavy goods was next to nothing. Yet no private citizen could do anything effective because no private citizen had either the money, the power, or the skill to undertake a task so enormous. It required the united effort of the whole country to handle the thing.

Yet the TVA is regarded with horror by people with logical minds, and the fact that it has been astonishingly successful is the most horrible part of it. Logical people assert that it is socialism, but if it had been a terrible flop it might have been a good thing, because it would have cured Americans of any faith in socialism. As it is, the success of

the TVA is tempting them to engage in other socialistic projects, since there are other river valleys that need attention just as much as that of the Tennessee, and some of them are much bigger and costlier.

It is useless to deny that the TVA project is socialistic. The essence of socialism is the doctrine that the tools of production should be owned by society. In this instance the tools of production include the fourteen enormous dams, a flock of power plants, canals, locks, electric transmission lines, laboratories, and vast quantities of machinery. Capitalism, as opposed to socialism, holds that the tools of production should be privately owned. This was all very well when the usual tools of production consisted of a mason's trowel and spirit level, a carpenter's hammer and saw, or a blacksmith's forge with a handworked bellows; but when the tools of production cost eight hundred million dollars, who on earth can own them? Who but society as a whole?

The truth is that there are certain kinds of business enterprise that must be publicly owned and operated. We recognized this generations ago, when we put the business of carrying the mails and that of coining money into the hands of the government. The post office and the mint are unquestionably socialistic, but what of it? Their private operation would result in endless confusion, suspicion, and uncertainty; so we made and have kept them public, regardless of whether they are called socialistic or by any other name.

But the logical argument that if a little socialism is good, a lot of socialism would be better is as false as the argument

that if one aspirin tablet helps a headache, a gross would make the patient feel fine. We know that they would, on the contrary, make him desperately sick.

Concentration of power in any hands is dangerous, and the hands of the government are no exception. Nevertheless, as science and technology advance, concentration of power advances with them. This truth is so plain, and its implication is so frightening, that it drove a very great man, Mahatma Gandhi, to advocate the abandonment of science and technology; that was the meaning of his spinning wheel. When the atomic bomb exploded, some people in this country, including some scientists, were so alarmed that they suggested, if not abandonment, at least a temporary suspension of further work in nuclear fission.

They have reason enough to be afraid; but it is the very essence of the original American doctrine that fear is not a proper basis of action. From Franklin's "Hang together or hang separately," to Roosevelt's "All we have to fear is fear itself," the best counselors of this country have advised us to go ahead even if we are afraid. To concentrate more and more power in the hands of the government is dangerous; but to refuse to do what urgently needs to be done is fatal. The stern decree that Fate issues to a free people is, "Take a chance, or die." The Founding Fathers took the chance, with splendid results; if their successors are still a free people, that policy is still good.

But it requires the assumption that most people are still honest. Naturally, use of the adjective "most" implies that

some people are not honest and reasonable precautions to restrain them must be devised. Determining what precautions are reasonable is the art of government and it is not to be left entirely in the hands of governors, if we are to remain a democracy. The governors are there to devise the precautions, but it is the people who must pass on their work and accept or reject it. So it is the attitude of the people that is supremely important. If they do not take the trouble to inform themselves and make up their minds, power slips from their hands, and no matter what we may call ourselves we are no longer a democracy.

But a man isn't making up his own mind when he accepts words for things. "Socialistic" is a word. It can be applied to anything, but it changes nothing. You can call any man a Socialist but that doesn't make him one. The test is not whether he is called a Socialist, but whether he wisely and honestly acts for the public good; if he does, the names that people call him have nothing to do with the case; if he does not, you can call him a saint, a hero, a demigod, but he remains nothing but a cheap-Jack and to vote for him is the act of a fool.

The original Americans held the right to acquire and possess property, that is, the right of free private enterprise, as included in the right to the pursuit of happiness. Therefore, they guaranteed it. But they did so on the assumption that most men are honest enough not to employ the power of property to destroy liberty, or the power of liberty to destroy property, seeing that both powers and both rights

rest on the assumption that the majority of Americans are reasonably decent. We must hang together, or we will assuredly hang separately, and the man who tries to split us apart is trying to assure our hanging.

But the voter who votes by labels and catchwords and slogans instead of by thinking is not voting honestly. When we vote for a man because he is called a Democrat or a Republican, a Socialist or a Capitalist, a Red or a White, and not because we sincerely believe that he is the best man running for the job, then we are abandoning that honesty on which the Founding Fathers relied; and, of course, if we abandon their kind of honesty, then their kind of government cannot be expected to work for us.

Chapter V

FREEDOM OF INQUIRY IS FOR HOPEFUL PEOPLE

WHEN Jefferson listed "the pursuit of happiness" as one of the rights which government cannot justly take from any man, except as punishment for crime, he stepped into a dark and mysterious corner of the realm of ideas. Nobody denies the truth of what he said; but the reason for that is that nobody knows exactly what it means.

The word "happiness" cannot be defined precisely because it means different things to different people, or to the same people at different times or in different circumstances. The word "pursuit" is almost as vague. Together, they express an idea that a man cannot always comprehend as it applies to himself, and that he can rarely, if ever, comprehend as it applies to anyone else.

The only interpretation of this phrase that is not open to some fatal objection seems to be this: the right to the pursuit of happiness is the right to be let alone.

Instantly, this raises the question, how is government going to govern if it lets people alone? The function of government is not to let people alone, but to interfere with them. Government is instituted to protect certain inalienable rights, among them life, liberty, and the pursuit of happiness; therefore its business, its reason for being, is to interfere with those who would infringe these rights, and not merely to interfere, but to prevent their doing what they would like to do. These people may be wrong, but they are nevertheless people, and they do not like it when government stops them from doing as they please.

There is no logical answer to this. The only answer is an illogical one—consider what would happen if government were abolished altogether. In that case, the right to the pursuit of happiness would not be respected at all. The strongest would impose his will on all others, and there would be no liberty except the liberty of the strongest. This is anarchy; and it was the secret fear of some founders of the republic that democracy must inevitably degenerate into anarchy.

Furthermore, there are some men—never a majority, but a definite number, and important out of all proportion to their number—for whom the pursuit of happiness consists in finding out what is true. They are critics of everything; and among other things they are critics of government, which lays upon the American government the duty of protecting those who attack it. This is the basis of the maxim beloved of early liberals, "That government is best that

governs least." It means that government should interfere with the individual only as far as is absolutely necessary to protect the general welfare.

Two factors work constantly against this ideal—one is human nature, the other is the passage of time. Any group of men given a chance to wield power—and a government is just that—will try to extend that power. This is the first factor. As more people are crowded together in the same area, more activity by government is required to maintain order. This is the second factor. Neither can be eliminated. Each is capable of becoming a threat to all liberty. Since some extension of governmental power is necessary as the population grows, it is easy for governors to convince themselves that any extension of their power is justifiable. This tendency must be held within bounds by steady counterpressure from people who know their rights and mean to maintain them.

But steady counterpressure is extremely irritating to government officials. It irritates shrewd fellows who are in politics solely for what they can get out of it to their own advantage, but it is even more exasperating to sincere men who are working honestly to promote the general welfare. Dogged opposition slows down, even when it does not stop, the operations of government, and when men are opposed on what they consider frivolous and unreasonable pretexts, they tend to lose their tempers. This is the trap into which liberal leaders are most likely to fall; men as great as Andrew Jackson, Woodrow Wilson, and both Roosevelts stepped

into it more than once, and the supremacy of Jefferson and Lincoln is due in part to their success in keeping out of it.

The mental process that betrays men in this respect is easy to understand. When opposition is unreasonable and insincere it is thoroughly bad. Opposition frequently is unreasonable and insincere; hence opposition is frequently bad. Thus far, the reasoning is perfectly sound, but at this point the human mind, and especially the mind of a harassed political leader, is likely to slip a cog, and go on to argue that since opposition is frequently bad it may be presumed to be bad until it is proved to be otherwise.

That is not the American doctrine. True Americanism holds the right to the pursuit of happiness to be inalienable, and if a man chooses to pursue happiness by opposing the government, his opposition must be presumed to be good until it is definitely proved to be bad. When the government molests a citizen in any way, it must show cause. The burden of proof is on the government, not on the citizen. In pursuing happiness he is within his rights up to the moment when he pursues it into territory that belongs to some other citizen, or to society as a whole. Those who assert that he has crossed the line must put up the proof; for when they molest him they are in the wrong unless they can show clearly that he was out of bounds, and the molestation was therefore necessary.

This is not merely difficult, it is next to impossible for men in power to remember. This is one case in which the maxim "Power corrupts and absolute power corrupts abso-

lutely" is sustained by the evidence; for in every case in which absolute power has been gained in this century, the holder of that power has come to believe that the mere spirit of opposition is as much a crime as an overt act. Lenin, Mussolini, Hitler, Tojo, Stalin—all have felt compelled to stamp out what the Russians call "deviationism" and the franker Japanese "dangerous thoughts." Some centuries ago, when the English kings were absolute, the same idea was embodied in the law making "imagining the king's death" a crime; and in 1951 Madame Shih Liang, the woman Minister of Justice of Communist China, proclaimed the necessity of punishing not only those who act against the state, but also those who are merely hoping for an opportunity to act.

America, so far, has escaped both absolute kings and absolute dictators, so we have escaped the worst abuses of this kind. Nevertheless, even in this republic we have had proof of the way people in power tend to try to suppress freedom of thought when they feel their power threatened.

The most conspicuous instance—although by no means the only one—was connected with the abolition of slavery. The slave States did not stop with making it a crime even to advocate the abolition of slavery; they also attempted to prevent anyone's thinking of such a thing by preventing the circulation of books, magazines and newspapers containing arguments against slavery. Their great advocate in Congress, John C. Calhoun, demanded that the free States do likewise. In speech after speech he proclaimed that enforcement of the Fugitive Slave Law and other laws designed to prevent in-

terference with slavery would not be enough; the North, he said, must cease agitating the question, which was tantamount to saying that the North must stop thinking about it.

It was an error. Far from persuading the North, Calhoun's speeches merely convinced many moderate Northerners that the South was utterly beyond reason. Under some circumstances a man may agree not to act on his beliefs, and it is permissible to ask him not to act; but to ask him not to think is too much. Anyone who makes such a request is asking him to submit his mind to tyranny, to surrender one of his inalienable rights, and the request is an insult.

At any rate, this was the way the American people regarded the matter in the Civil War period. Up to the time of Calhoun's death, in 1850, the Abolitionists were far from popular in the North. Even in 1860 Abraham Lincoln, campaigning for the Presidency, was careful to keep clear of them. They were, as a matter of fact, as unreasonable as Calhoun. William Lloyd Garrison, borrowing eloquence from the Prophet Isaiah, called the Constitution "a covenant with death and an agreement with hell" and publicly burned it because it recognized slavery as legal. Nonsense of that kind made people shy away from the movement; but when Calhoun undertook to tell them that they *must* close their minds to Abolitionist argument, the shoe was on the other foot. Americans of the period were not disposed to accept dictation from either side, and the foolish effort of the South to establish an Iron Curtain did its own cause more damage than all the Abolitionist arguments.

Calhoun's error was in assuming that the danger to the cause of the South was the Abolitionist propaganda. The truth was the reverse. Such extreme statements as that of Garrison were making friends for the South among sensible Northerners. If the Southern leaders had had courage enough to remain silent the Abolitionists would have done them more good than harm. But they did not have that courage and it is probable that they lacked it because at heart they knew that their cause was a bad one. The greatest of their own leaders, Washington and Jefferson, had admitted that slavery was an evil, and innumerable other Southerners, smaller than these giants, but still big men, down as far as John Randolph of Roanoke in his early years, had regretted the existence of the "peculiar institution." Therefore such men as Calhoun, Jefferson Davis, Yancey, and Rhett felt that they were standing on slippery ground; and when men are uncertain of their own footing they become more violent and aggressive than those who know they are standing on solid earth.

The only man who can heartily favor complete freedom of inquiry is the man who is so certain that his own cause is right that further inquiry can only strengthen it. Truth has nothing to fear from the fullest investigation. If an idea is true, then the more it is investigated the better; for the more it is investigated, the more people will see that it is unquestionably true, and the fullest investigation will simply result in convincing everybody.

But a man who is not quite certain that his own cause is

just is full of fears, and well he may be; for an idea that is plausible on the surface but unsound at heart cannot stand investigation. Little by little sharply inquiring minds will uncover the rotten spots, and soon or late that idea will be exposed as false. It may take a long time. Men have constructed many theories so beautiful on the surface that generations of persistent inquiry were necessary to show up what was wrong with them. Human slavery was one such theory. It lasted, not for generations, but for centuries. As acute a thinker as Plato never questioned it. The writers of the New Testament accepted it. Fifteen centuries of our era had passed before it was challenged seriously. Nevertheless, the thing was rotten at the heart, and as the power of reason was refined and sharpened, and as men learned more and more about the world they live in, it was inevitable that the rottenness should be exposed; and it was just as inevitable that men committed to that theory should become more and more uneasy, therefore more and more arrogantly and violently opposed to further investigation.

This explains the attitude of the Communists in 1951. They are committed to the theories of Karl Marx, all of them. Many other people have been impressed by some of Marx's ideas, but only the Communists swallow the doctrine whole. Yet they lack the courage of their convictions. They are not willing to permit complete, persistent, unrestricted examination of that doctrine, so they have lowered the Iron Curtain between the areas they control and the rest of the world. They may not realize it themselves, but at heart they

are uncertain of the truth of that doctrine and so dare not submit it to what Justice Holmes called "the competition of the market."[1]

In Russian Communists this attitude is not hard to understand, for they have had nothing like the American experience to contradict it. Up to 1917 Russia had been a despotism of one kind or another throughout its history. Mongol conquerors ruled most of the country for four hundred years before the Czars took over; and Mongol and Czar, if they agreed on nothing else, were both convinced that the state could not endure if the people were encouraged to think for themselves.

So when Czarism broke down in 1917, it was easy for the Russians to transfer from the despotic theory that one man must dictate to the Marxian theory that one class must dictate, if public order is to be preserved. If, as Marx believed, it is impossible for people with different interests on different economic levels—rich men and poor men, scholars, merchants, artists, craftsmen, dull men and brilliant men, the religious and the irreligious—to work out a compromise under which each will respect the rights of the others, then it is clear that someone must dictate. The Czars favored a despot, Marx favored the proletariat; but on the main fact, that there must be a dictator, they were agreed, so the transition from the Czar to Marx was not difficult.

Americans, however, have behind them the experience of

[1] "The best test of truth is the power of the thought to get itself accepted in the competition of the market."—Holmes, J., in *Abrams v. United States*, 1919.

a hundred and sixty-two years flatly contradicting the Marxist-Czarist idea. We tried the experiment of working out a compromise based on the theory that each class is capable of enough self-restraint to permit other classes not only to live, but to enjoy the rights of liberty and the pursuit of happiness; and for a hundred and sixty-two years it has worked, not perfectly, indeed, but well enough for the country to be built up into the wealthiest and most powerful nation on the globe.

After all, what more is to be expected of any form of government? None will ever be perfect as long as greed, envy, and ambition exist among men; so if one works well enough over a long enough period to permit the construction of a great nation, it is obviously a good form, even though it may not be ideal. Furthermore, this form has been constructed on the theory that the people can think for themselves and it is advisable to encourage them to do so. Clearly, then, it is a good theory, or at least a tenable one; the American experiment has demonstrated that freedom of thought does not necessarily destroy the state but that, on the contrary, a state may flourish prodigiously where freedom of thought is encouraged. Communists may argue that we would have flourished even more prodigiously under a wise and benevolent dictatorship, but it is their business to prove it and they have submitted no sort of proof as yet. If Russia a hundred and thirty years hence is still Communist, and rich, powerful, and happy, they will have something like proof; but they haven't it as yet. On the contrary, after

nearly thirty-five years of communism, the country is still poor and, if we can judge by the evidence of Russian statesmen and Russian newspapers, ridden by hatred, fear, and suspicion of all the rest of the world, which is to say, wretched.

So communism has made little impression on this country. Thirty-odd years of incessant propaganda have produced, according to the Federal Bureau of Investigation, about fifty-five thousand card-carrying Communists, which, in a population of a hundred and fifty millions is thirty-six thousandths of one per cent. This is at the rate of slightly over one thousandth of one per cent a year; at which rate it would take something over forty thousand years to make Communists of a majority. The danger may be called remote.

Unfortunately, though, belief in dictatorship in the form of thought control is not confined to Communists, nor to Fascists, nor to Czarists, nor to the Lamaists of Tibet. It is shared by some people who hate communism and who regard themselves as being as far from communism as the poles are apart. It is shared, or at least it is tolerated, by all those whose fear of the future is greater than their hope; and this is characteristic of many native-born Americans, some of them highly intelligent.

For it is true that any man who thinks may think up devilment, and where there are many thinkers some are sure to do so.

This is a disturbing fact to those who believe that the power of thought is the greatest power in the universe; but

that it is disturbing is no reason for ignoring it. The founders of this republic realized it, and it appalled some of them. Since their day every student of public affairs whose ideas carry any weight has realized it, and some of them, Brooks Adams for instance, have been staggered by it. Freedom of thought is dangerous. There is no doubt about it, and any serious consideration of the American tradition must take the fact into account.

In recent years it has been brought home sharply to men who are not philosophers, and who may not even call themselves thinkers, by one event that has startled and scared the world. This was the invention of the atomic bomb.

This article was the product of freedom of inquiry, not in this country alone, but throughout the scientific world. The principle of atomic fission was not the discovery of any one man, but had been approached, little by little, by many men of many nations. Germans had contributed much to it, and Italians, French, British, Danes, Swedes, Russians. It mattered little, as far as the result was concerned, who made any particular step, for what one physicist discovered he promptly made known to all other physicists and to anyone else capable of reading and understanding scientific journals.

But as late as 1940 it was still in the realm of theory. Mathematical calculations so intricate that the layman is incapable of reading them, not to speak of making them, had proved that if certain radioactive material were brought into a certain relation with certain other material, atomic

fission would follow and the release of energy would be very great. This was known wherever a physicist had kept abreast of his science. To bring those materials into that relation was not a simple matter; in fact, it would require enormously abstruse calculations, so many and so difficult that nobody had time or inclination to undertake the labor; but everyone knew that, theoretically, it could be done.

After the attack on Pearl Harbor it was done. Two thousand scientists labored for nearly five years to accomplish it, but it was done. Relatively few of these scientists fooled around with test tubes and retorts, or stood at a workbench with precision instruments in a laboratory. What they did was think. They knew that if they worked out the correct formula, competent mechanics could design and manufacture the parts and fit them together. The scientists' job was to calculate in advance what would happen in an experiment that had never been tried.

They made that calculation. In fact, they made it in four different ways, all of which turned out to be workable. It was a triumph of thought, not of manual dexterity. It was one of the most gigantic achievements in the history of thought. Even laymen can understand that much, and laymen readily grant it.

But the outcome of this prodigious labor, utterly impossible without the freedom of inquiry that physics had enjoyed for nearly three hundred years, was the most dreadful engine of destruction that the world had ever seen. For the first time nonscientific Americans realized that the same

science of which they had been inordinately proud and which had, indeed, largely created the American way of life, was also capable of creating an American way of death swifter and more overwhelming than any lethal machine hitherto contrived. If that is the result of freedom of inquiry, some people began to ask, is the game worth the candle?

They had at least one distinguished precedent for arguing that it is not. Once before ingenious armorers had devised a weapon so deadly in its effects that sober men feared it might depopulate the nations and the Pope issued an encyclical condemning its use by any Christian warrior against any other Christian, no matter what the circumstances. The Pope was Innocent II, the year 1197, the weapon the crossbow. So the feeling that a weapon may be so lethal as to discredit the science that produces it is at least seven hundred years old and has been shared by persons of high character and great eminence.

In 1951 so many persons of that type were coming to Pope Innocent's point of view that scientists were beginning to forecast a retrograde movement in science comparable to that which Greek astronomy suffered after the time of Hipparchus.[2] This pessimistic view assumes that men have come to fear more than they hope from the advance of science; and, in fact, if science is to be devoted to purposes of destruction that fear is justified. The atomic bomb is by no means the worst of it; science has developed a threat even more

[2] See, for example, Fred Hoyle, *The Nature of the Universe*, published in 1951.

grisly in bacteriological warfare. Time was, and within the memory of living men, when the utmost loathing and contempt for an enemy beyond the pale of civilization, even beyond the limits of humanity, was expressed in the phrase, "they fight with stink-pots and contagious diseases." But there is a very real threat that in the next World War all nations, including the United States, will be reduced to fighting with such weapons, put into our hands by the advance of science. Thus we are compelled to face the fact that science, the same science that has so largely created our material welfare, can take the opposite direction and drag us down toward the level of the beasts.

It is folly to dismiss this airily as the figment of a fevered imagination. It is nothing of the sort. It is a very real peril that may be the end of us as a civilized race. But it is not new and the men who founded the United States of America were well acquainted with it. Jefferson, for example, at least once was utterly defeated by the fear of freedom of inquiry; it was when he attempted to bring Dr. Thomas Cooper, the British-born chemist and philosopher, to a professorship in the newly-founded University of Virginia. Fear of what Cooper's inquiring mind might do to orthodox opinions defeated the effort, although in this case the opposition was theological, not scientific.[3] Chemistry had not yet exhibited

[3] The controversy over Dr. Cooper extorted from Jefferson his letter of April 13, 1820 to William Short, with its famous denunciation of the Presbyterians—a passage unjustly severe upon that communion but, if it be read with reference not to Presbyterians specifically, but to bigotry generally, a masterpiece of invective.

its power to destroy the world, but philosophical speculation was as much feared then as scientific investigation is now. The Virginians had no idea that Cooper, the chemist, might blow up the earth, but they had a lively dread that Cooper, the philosopher, might blow up religion, so they banned him and he had to go instead to what is now the University of South Carolina, where he made a great record—and did not demolish religion.

Fear of freedom of inquiry was thus familiar to the men who wrote the Constitution. It was not fear of physical destruction through the advance of science so much as it was fear of moral destruction through the questioning of philosophers; but to assume that the fear was any less real is to take a light-minded view of humanity; on the contrary, fear of the destruction of religion and morality appalls men who can face death without a quiver. There is no doubt that many honest and able men believed then, as some believe now, that unrestricted inquiry into the literal truth of the Bible or the then accepted dogmas of theology would so undermine morality that men would no longer hesitate to commit perjury, theft, and violence of all sorts including murder. There would be no safety of life or property, no public order, in short, no civilization if men were permitted to express freely any arguments they might find against religion.

Nevertheless, the official American doctrine is the exact opposite. Fully aware of the risk, the men who wrote the Constitution accepted it, for they hoped more than they

feared from the process of pushing knowledge to the furthest bound attainable. In the Sixth Article they wrote, "No religious test shall ever be required as a qualification to any office or public trust under the United States." The religious test was the only one seriously considered at the time; but there is hardly room to doubt that if anyone had suggested a scientific test, or a philosophic test, they would have banned it just as vigorously.

The argument that led them to commit themselves to this risk, and to commit us to it ("no religious test shall *ever* be required") is itself to be found in that very Bible that the apprehensive were anxious to protect from investigation. It is in the Gospel according to St. John 8:32: "Ye shall know the truth, and the truth shall make you free."

This is one of the most hotly debated texts in Scripture, because it is extremely far-reaching. In the short run, it is flatly not true. Every man has found by experience that in many cases knowing the truth, far from making him free, binds him; for if he is a decent sort of man, when he knows the truth he is bound to act accordingly, even though he may very much dislike doing so. The truth is frequently hateful, and where ignorance is bliss 'tis folly to be wise. Nevertheless, when a man has had much experience, it dawns upon him that in the long run the words of the text are quite accurate; for when he knows what is what, he can form an opinion on which he can act with confidence, whereas before he had to accept the opinion of someone else and therefore was not a free agent.

It is an astonishing fact that some people can take almost any amount of formal schooling without becoming educated; for a man is not educated until he learns how to think. The beginning of thinking is realization that one has no opinion until he has learned the facts. On any subject whatever, before he has mastered the facts the best any man can have is a prejudice. If he has many prejudices, the laws of chance guarantee that some of them will be right, but the fact that he is occasionally right is small credit to the prejudiced man.

Life is so vastly complicated that most of us, even the wisest, make most of our decisions on prejudice, not on opinion. Sometimes prejudice is not ill-founded. We have discovered, say, that Mr. A is, in most things, a man of good judgment; therefore when he remarks that B's restaurant is an excellent one, we go there to dine, although we may never have heard of the place until he mentioned it. Our going there is not based on an opinion, but on a prejudice in favor of Mr. A's judgment of food. It may be erroneous, but it is not unreasonable, for a man who has shown good judgment in other things—in speech, in manners, in dress, and in general deportment—may reasonably be supposed to have good judgment about food. Oftener than not the restaurant will, in fact, turn out to be good, so we are justified in acting on that kind of prejudice.

Life is too short for a man to undertake to acquire a sound opinion on everything. In a thousand details he must act on supposition, because if he did not he would be dead

of old age before he could make up his mind how to act at all. The great peril of democracy is that a majority of us may carry this habit over into things of the utmost importance, and so become no longer a self-governing people, but a people manipulated by a few shrewd men who know how to play on our prejudices.

We cannot flatter ourselves that we have never fallen into this error. A very slight and superficial examination of the history of the United States will show that the people have made error after error by acting on prejudice instead of on facts perfectly well known to a majority. The wisest men in the Constitutional Convention of 1787 wished to include in the document a provision for the gradual elimination of slavery, but prejudice blocked it. Even in 1860 the wisest men in the South realized that slavery was a social, political, and most emphatically an economic evil, and Abraham Lincoln stood ready to assist them in eliminating it by any means that did not involve disruption of the Union; but prejudice blocked it. In 1865 the wisest men in the North realized that a policy of reconciliation and rehabilitation was indicated, but prejudice blocked that, too.

In each case, the opinion of the wise men was based on facts known to them and easily available to all others. But an effective majority—which is not always the same as a numerical majority—either did not know the facts, or refused to believe them, and the greatest single tragedy in American history was the result.

To say that this was a departure from the essential

American idea is not quite exact. It was rather a case of ignoring the idea. The Founding Fathers did not hold with compelling the people to do anything, not even compelling them to subordinate prejudice to informed opinion. They held only that it is absolutely essential to prevent the prejudiced from stopping or silencing any man who is attempting to get at the facts so that he may form a sound opinion. They believed that if the facts are made available, eventually the people will accept and act upon them, even though waves of hysteria may delay that acceptance for some time.

This is the basis of what is generally termed academic freedom, that is, the right of a scholar to pursue truth, no matter where the pursuit may take him. Unfortunately, since the truth is unknown (or there would be no occasion to look for it) this necessarily involves granting learned fools the right to pursue crazy ideas, and this liberty has brought academic freedom into disrepute with hasty and impatient people.

There is really nothing to be done about this, because the most brilliant advances in human thought have borne, at first, the appearance of utterly crazy ideas. Pliny the Younger, far from being a fool, was one of the shrewdest fellows of his time, a brilliant writer, an excellent administrator, and always interested in new ideas; yet when Christianity was first brought to his attention he wrote to the Emperor Trajan that in it "I could discover nothing more than an absurd and excessive superstition." For the time, even this was mild, and it brought upon Pliny charges of

what we would now call whitewashing a bad situation. He was denounced very much as modern university presidents are denounced almost every day for not choking off some professor whose search for truth is not revealing truth exactly as it is known to the denouncers.

It is perfectly true that not every man who claims academic freedom is entitled to it, but the soundness of his claim cannot be determined in advance. Holmes' observation that the best test of truth is its ability to get itself accepted in the competition of the market was conservative; he might have called it not the best, but the only practical test. The American way, or at least the way the Constitution writers chose, is to permit the idea to enter the market without let or hindrance. Its collision with opposing ideas will test it, and if it survives it may be accepted.

But the search for truth was never pursued with much success by a man walking alone. This was abundantly demonstrated during what we are accustomed to call the Dark Ages, when Europe had almost completely forgotten the classical learning of Greece and Rome. Some of the most brilliant intellects of all time appeared during that period, but they worked for the most part with little and uncertain knowledge of what had been done before and less of what was being done in their own time, so their labors were ineffectual. Abélard, Roger Bacon, Paracelsus, for sheer brainpower have rarely been surpassed; but all of them fell into blatant absurdities for lack of information that had been known at one time or another to one man or another, but

that was cut off from them by the Iron Curtain of prejudice and superstition.

No man is great enough to avoid error altogether, and the greater the mind the greater its need of constant correction and stimulation by other first-rate minds. For the error of a great man is much more serious than that of a small one. Paracelsus, by his mistaken treatments, undoubtedly poisoned far greater numbers than could have been killed by any doctor with a tenth of his reputation. Albert Einstein, cut off from communication with all other mathematicians, might have evolved false theories that would have misled the world for generations, and Toynbee, had he possessed only fragments, or none, of the writings of Gibbon, Ibn-Khaldun, and Thucydides, could have constructed a theory of history more fantastic than Friar Bacon's Brass Head.

This is the risk that the people who fear the search for truth overlook, but it was seen plainly by the men who wrote the Constitution, and they regarded it as far greater than the risk of permitting error to be proclaimed in the market. Their attitude has been until recently the American attitude, the essence of American tradition regarding freedom of the mind.

Perhaps it is still the essential American tradition, but there is at present a vigorous effort being made to change it. Since Russia has dropped the Iron Curtain between her thinkers and the rest of the world, there have been those who maintain that we must, in self-defense, impose an Iron Curtain between ours and the rest of the world. The science

of nuclear physics has already been cut off, because nuclear physics can devise the highest of all high explosives. The fact that its methods of releasing atomic energy might theoretically be turned to the uses of peaceful industry is ignored in the general fear that some enemy might use atomic bombs against us. That is to say, our fear has grown greater than our hope.

This is a departure from the American tradition. This is, indeed, the utter repudiation of the American tradition; and if the fathers of the republic were right, it is a self-defeating movement. For it was their opinion that to permit fear to override hope is to abandon the great experiment and to admit that the thesis that "governments derive their just powers from the consent of the governed" is a lie. For consent is never freely given by people who are afraid. It is extorted from them, and an extorted consent is not self-government.

Furthermore, a thinking man is not stopped from thinking by laws, nor by Iron Curtains. Outside force can only prevent him from thinking accurately. American scientists, cut off from intellectual contact with their fellows in the rest of the world, would not sink into lethargy. They would continue to use their powers, but they would probably use them erratically. Unaware of the needs, the efforts, the failures, and the successes of their fellow scientists, they would be unable to view science as a whole. They could only peep at it from their national angle, and a distorted conception would be the result. But it does not follow that they

would be idle. Nuclear physicists are anything but idle in the United States today; on the contrary, fear of what may be going on behind the Iron Curtain has spurred them into furious activity and will continue to spur them. The destructive power of atomic energy is being developed as completely and as rapidly as is humanly possible. Unfortunately, there is no equivalent drive behind development of its constructive power. A science afraid of itself can be wonderfully productive of weapons and armor, but not of improvements and restoratives. From a distorted and truncated science we may expect ever larger and deadlier bombs, but not many engines.

In 1776 and 1787 American hope of the future overrode fear of the future and to fit that condition the American system was devised. In 1951 if fear is permitted to override hope, the system will no longer fit the condition, for freedom of inquiry is of small value to hopeless men. But the question cannot be answered by examining the system; the answer is to be found in the attitude of the people. The confidence of the fathers made it work then, and only a similar confidence in the sons can make it work now.

Chapter VI

FREEDOM OF ASSOCIATION IS FOR STEADY PEOPLE

MR. JAMES MADISON was a bright young man, and a wonder when it came to writing a strong argument, but he never could allay the fear that haunted the mind of President George Washington to the end of his public life. This was the fear of what Washington sometimes called "party" and sometimes "faction," but what men today commonly describe as "pressure groups." Washington's words and our words mean the same thing, that is, a set of people who band together to secure some advantage for themselves, regardless of the welfare of the rest of the country; and the first President felt so strongly on the subject that in his last message to the people, the famous Farewell Address, he devoted a very hot passage to it.

Let me [he said] warn you in the most solemn manner against the baneful effects of the Spirit of Party generally. This Spirit, unfortunately, is inseparable from our nature, having its roots in the strongest passions of the human mind. It exists . . . in all

Governments; . . . but in those of the popular form, it is seen in its greatest rankness, and is truly their worst enemy. The alternate domination of one faction over another, sharpened by the spirit of revenge . . . is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. . . . Sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of Public Liberty.

This is terrific. Yet it is so plausible, based on so judicious an estimate of human nature, and so well supported by the history of popular government that it has clung to the minds of thoughtful men ever since 1796, when it was published.

Young Mr. Madison had, indeed, examined the point and had answered it nearly ten years earlier. But young Mr. Madison was arguing on theory, while old President Washington spoke out of experience. It is not surprising that the President's words had many times the effect of the pamphleteer's on the minds of men then living, or that they have since been quoted many times oftener.

However, more than a hundred and fifty years later, there is reason to believe that the young man was a better prophet than the old one. In 1796 George Washington was a tired, discouraged man, and he had at his elbow as his principal adviser Alexander Hamilton, who never tried to conceal his skepticism of the ability of the people to govern themselves. The Presidency had been for Washington a bed of thorns from the start, and what rasped him more than anything else was the sniping to which he was subjected by individuals and groups who were seeking to serve their own

ends and who were furious when Washington persisted in putting the welfare of the country ahead of their interests. He knew how that sort of thing, if carried far enough, must eventually ruin the republic; and he knew that in every democracy in history, up to his time, it had been carried to an extreme that destroyed popular liberty. It is not surprising, then, that his final message to his countrymen urged them to suppress factionalism, although at the same time he admitted that it is "inseparable from our nature."

Nevertheless, a hundred and fifty-five years later, the successful despot has yet to appear. We have confidently expected him all that time, and over and over again unduly alarmed persons have cried from the housetops, "He is here!"

Some very odd characters have been chosen by the alarmists as the predicted factional chief who was to secure "his own elevation on the ruins of Public Liberty," but perhaps the oddest was that very Mr. Madison, grown older, who had asserted that it couldn't happen. In 1814 New England was so certain that "great little Jemmy" was in process of destroying the republic that at the Hartford Convention it prepared to secede and rejoin the British Empire. Nothing but news of the treaty of peace and of the battle of New Orleans, both regarded as great American successes, halted the movement.

As a rule, however, the men who have caused shudders to run through the country and set the panicky to rereading the Farewell Address, have been of a type very different from that of the studious Mr. Madison. Of course, the oppo-

sition party can always find in the leader of the administration some resemblance to the "Man on Horseback," but that is for the purpose of winning votes for the opposition, not for serious consideration by sensible men when there is no election coming soon. Everybody who has been president of the United States—even William McKinley, and Rutherford B. Hayes—has been accused by someone at some time of wishing to be a subverter of the government.

Disregarding such obvious claptrap, not believed even by the men who put it out, there have been a few Presidents who really did alarm considerable numbers of their fellow citizens, and were seriously suspected of a design, or at least a desire, to become dictators of America. Most conspicuous among these were Thomas Jefferson, Andrew Jackson, Abraham Lincoln, Woodrow Wilson, and F. D. Roosevelt. Some, but less widespread alarm, was excited by John Adams, James Madison, Andrew Johnson, Grover Cleveland and Theodore Roosevelt; but each of these was attacked by a well-organized opposition, which deliberately stirred up an alarm that was largely fraudulent.

The five really terrifying men were of widely divergent types. Jefferson and Roosevelt were by birth aristocrats, Wilson an intellectual, Jackson a pioneer; only Lincoln came from what in these days we call the proletariat and what he called the common people. Jefferson and Roosevelt were wealthy, Jackson made and lost several fortunes, Lincoln and Wilson were usually hard up financially. Jefferson and Wilson were very learned men, in fact, philosophers;

Roosevelt was well educated; Jackson and Lincoln were comparatively unschooled. Jefferson, Jackson, and Wilson were essentially solemn fellows; Lincoln and Roosevelt had the gift of laughter. Jefferson, Jackson, and Roosevelt were blond, Lincoln and Wilson dark. All five were tall, and all but Roosevelt, lean; but height was the only personal characteristic they possessed in common.

Nevertheless, they produced a common effect, namely, that they scared large numbers of their countrymen almost—sometimes altogether—out of their wits. It stands to reason, then, that they must have possessed some common quality to which the fright can be traced. This quality is not hard to find—each of the five was leader of an immense mass movement, made up of millions of men who took democracy seriously. To their opponents each of them seemed to be what Washington had described—an unusually able or unusually fortunate chief of a faction—so to their opponents the rise of each looked very much like the fulfillment of Washington's prophecy.

Nevertheless, none of them subverted the government, none achieved "his own elevation on the ruins of Public Liberty." None had to do so, for in each case it turned out that the apparent faction was in fact a constitutional majority, and the leader was able to accomplish his aims by constitutional forms. The majority is not a faction, for the will of the majority, as Jefferson said, "is in all cases to prevail." From the standpoint of constitutional law, the majority exercises the power of sovereignty, and the

minority is the factional element. As long as the will of the majority prevails by peaceful, constitutional means, public liberty is not laid in ruins, even though the private liberty of some individuals and some groups may be restricted.

More than that, when time enough had passed for the dust to settle and for the screams of the panic-stricken to cease echoing, it has turned out—not once, but in every case—that these terrible fellows did not do and did not want to do anything really revolutionary to the American system.

Cynics, indeed, are fond of pointing out the very small change that each effected. If Jefferson broke up the Federalist clique that had been running the country, he established the Virginia dynasty that ran it for twenty-five years more; if Jackson unhorsed King Caucus, he merely put King Party in the saddle; if Lincoln freed the slaves he did so incidentally to his main purpose, which was not to destroy anything, but to preserve the Union; if Wilson succeeded in his effort to "release the generous energies of our people," the people devoted their released energies to an intense nationalism that has bathed the world in blood; if Roosevelt instituted a New Deal, the cards seem to fall pretty much in the same old way.

But cynics overlook the fact that the huge masses of the people who supported each of these leaders did not want any revolutionary changes. A slight improvement in the general welfare, a small betterment of the position of the average man, was enough to content them. For the people are not revolutionary; with the system in general they are

and have always been very well pleased, and a genuine attack on Americanism would have shocked and scandalized them.

We have had efforts by some men to seize and retain power by extraconstitutional means. Political bosses have stolen elections frequently enough to make us familiar with that sort of thing. Shortly after the Civil War one William Marcy Tweed held power for years in the city of New York by a shrewd combination of bribery, theft, and forthright terrorism. He has become a symbol for a kind of political corruption that has been experienced to some extent by every large city in the country. By far the most notorious adventure of the sort, however, was that of Huey P. Long, a boss who set up a virtual dictatorship over a whole State. Long organized the proletariat in Louisiana, much as Hitler did in Germany and Mussolini in Italy, and at the time of his assassination he was making a serious effort to extend his power over the rest of the country. He came closer than any other American has come to being the successful factional chief that Washington described.

It is plain, then, that when Washington called the trend to factionalism "inseparable from our nature" he spoke truth. We have not eradicated it. We have not attained the unity that the first President held necessary if the country were to survive. On the other hand, the consequences that he predicted have not followed. Those evil leaders who put their own greed above constitutions and laws have never gained power over anything larger than a city or, at most,

a State. Those leaders who have swept the country and inspired widespread terror have turned out to be, in every case, not usurpers, but mere reformers, willing to proceed by constitutional means, anxious to preserve all the forms of the republic.

Once, indeed, a region comprising one-third of the country was subjected for some years to rule by force and violence, but in that instance constitutional government was overthrown, not by mobs, but by organized military power. After the conquest of the Confederacy the Southern States were temporarily abolished and their area converted into military districts. Nearly all white men, having served in the Confederate army, were denied the right to vote, which is to say, the majority was suppressed. An explosion of violence resulted, but it was not organized by any factional chief, nor did it set up or attempt to set up any single dictator. This episode, therefore, was not at all the thing Washington had in mind, for it was not a natural result of factionalism, but an extraordinary reaction to an abnormal situation. It may be disregarded, for it does not furnish an exception to the rule that true factionalism has not yet extended its power further than locally.

Yet Washington knew human nature, and as we read his words today we know that they still apply. The spirit of faction is dangerous, and it is a part of our make-up. Far from having rooted it out, we are possessed by it just as much in 1951 as we were in 1796. Gloomy minds, observing the bitterness of modern quarrels, sometimes believe that

we are more, not less, divided than we were under the first President. There must be some reason, then, for the failure of his prophecy. The conditions have remained as he described them, but the consequences he predicted have not appeared in a hundred and fifty-five years.

Madison offered an explanation when he, with Hamilton and Jay, was arguing for adoption of the Constitution in that wonderful series of essays later brought together and published in book form under the title of *The Federalist.* But at the time, of course, *The Federalist* was all theory. Up to that time democracies had failed, without exception; for if they were not overrun by some foreign invader, as soon as they became rich and powerful they ceased to be democracies. Hamilton, Madison, and Jay set themselves to prove that it would not be so with this new experiment in democracy, the United States of America.

But they had to rely on reasoning alone, because experience was all against them. They ransacked history to show how this new experiment was different from all previous ones, and therefore should produce different results. They did a job so magnificent that it persuaded the people; the Constitution was adopted and the experiment launched; but the three were credited at most with being very skillful reasoners who might be right, but who were not supported by precedent.

In one essay, published first as a newspaper article, but appearing later as Number 10 in the series, Madison considered the question of factionalism. He did not argue that

Americans are free from it any more than were the Greeks, the Romans, or any other nation that had tried democracy and failed to make it endure. He did not argue that Americans can get rid of it by good resolutions, by fasting and prayer, or by any other means. But he did argue that certain conditions in this country would operate to break the force of factionalism before it became ruinously powerful. Therefore, said Madison, the fate that overtook the other democracies would not necessarily overtake this one.

The first and most important of these new conditions, and the one from which all the others stemmed, was sheer size. The earlier democracies had all been small, usually city-states, in which the whole voting population could be assembled in one place to take a hand in government. In such an assembly it was easy for a leader to organize a clique, all intent on one thing only and each determined to vote for that one thing, regardless of what else might come up. Enough such cliques would reduce the assembly to disorder and stall the processes of government; then it might seem necessary to permit a dictator to take charge in order to get anything done.

But the American people, scattered over an enormous area—enormous even in those days although it was only one-third of its present size—could not vote in an assembly. The only possible way for them to conduct their public business was by delegating the authority of the voters to a small number of representatives. However, the fact that each of these men represented a large number of voters

meant that he stood for many kinds of people with many kinds of interests. Rarely would all the constituents of a representative be intent on one thing to the exclusion of everything else; so the representative would be compelled to take a broader view than that of a clique in a Greek city-state.

Even the larger interests, said Madison, could not become dominant in a large country because there are too many of them. In his day manufacturing was just beginning in the United States, but foreign trade was already very important in the seaboard cities, merchandising was important in all cities and towns, while agriculture was the most important interest of all. Therefore, if the farmers tried to take over the government and run it to suit themselves, they would be powerfully opposed by the merchants and shipping interests, the merchants by the farmers and shippers, the shippers by the merchants and farmers.

The record of the past century and a half shows that the scheme has worked very much as Madison predicted. To agriculture, merchandising, and shipping we have added manufacturing, banking (or finance), and transportation as extremely powerful economic interests. There have been times when one or another of these interests has seemed to control the government entirely. At all times the discontented have been complaining that we were helpless in the clutches of the industrialists, or the bankers, or the railroads, or the farmers, or some other special interest; but it has never been true. Always, before public liberty was com-

pletely destroyed—sometimes, one is tempted to say, just before—something has happened to break the power of the dominant faction. Occasionally it has been a revolt of the people; more often the dominant faction has been dragged down by a combination of other factions.

Only once has it been necessary to resort to force to dislodge a dominant faction. That was in the case of the slave-power, which put the preservation of its special interest above preservation of the union. It was a fatal mistake. Not only did the union survive, but the slave-power was so utterly destroyed that the region in which it flourished has not fully recovered from the blasting after nearly a hundred years.

It cannot be denied that certain special interests have become strong enough, from time to time, to perpetrate great injustice upon the rest of the country. In fact, nearly always there is a segment of the population, call it special interest, or faction, or pressure group, or what you will, that is enjoying privileges to which it is not justly entitled, whether in power, or in prestige, or in money. But none has altogether subverted public liberty, and none has held its position without strong and increasing opposition that—so far, at least—has always dragged it down before many years have passed.

Greed is a vice that infects all the world, including the United States, and greed has been the motive behind many factional struggles. Foreign critics of the American system have frequently asserted that the power of money is the

chief threat to the republic, and it cannot be denied that the misuse of money has been responsible for many disgraceful episodes in our national history. Yet it is a fact that the most successful efforts to restrict the freedom of the individual American have not been based on money.

Three of these have been especially noteworthy. In 1873 a certain Anthony Comstock, at the time a shipping clerk in New York, started his famous campaign against what he called vice. Unfortunately, he had the sort of mind that can see vice in honesty and beauty, as well as in filth and ugliness, so a great many of his attacks were made upon honorable and intelligent people. He persuaded Congress to enact a law against the transmission of obscene matter through the mails; but the law was so carelessly drawn that almost anything Comstock considered obscene could be brought under it. He had himself appointed a special agent of the Post Office Department, and armed with that power for thirty years he terrorized authors, publishers, and artists to such an extent that he seriously handicapped the development of literature and the arts in this country.

Few city political bosses lasted as long as Comstock and none wielded such power. Even Huey Long's attacks on the schools and colleges of Louisiana did far less to limit and retard the development of the American mind. The railroads and the trusts, often portrayed as the most sinister influences in American public life, never had Congress,. even at the height of their power, as completely under control as Comstock had it.

Yet he was not after money. For many years he refused to accept a cent from the government, although he was doing the work of a post office inspector, and what he got from other sources was never much. He was offered enormous bribes, but attempts to bribe him got no other response than contemptuous laughter. His strength came, not from the greed of legislators and other leaders, but from the fact that it was almost impossible to oppose Comstock without seeming to favor obscenity, and men who never hesitated to fight great bankers and millionaire industrialists could not endure the idea of being described as friends of vice.

The second great success of a determined and well-organized faction was achieved by the Anti-Saloon League. It wrote into the Constitution and held there for fourteen years an amendment prohibiting the production and sale of alcoholic beverages anywhere within the jurisdiction of the United States.

The great genius of the Anti-Saloon League was an Ohio lawyer named Wayne Bidwell Wheeler. He was clever enough to make opposition to his kind of temperance take the appearance of favoring drunkenness, and few politicians dared run that risk.

But Wheeler was not after money. The Anti-Saloon League collected large sums for many years, and Wheeler used it to defeat his opponents in what many of them considered a highly unscrupulous fashion; but there is no evidence that he ever put a cent, of all the millions he handled,

into his own pocket, except the rather modest salary he received from the League.

Nevertheless, this man succeeded in persuading the American people to repudiate their political tradition to an extent never before approached. In the early days of western civilization and down to the fifteenth century, it was the accepted practice for government to enact what were called "sumptuary laws,"[1] that is, laws designed to suppress extravagance, because it was taken for granted that the people were incapable of governing themselves, even in such matters as deciding how much to spend for food, clothing, drink, and furniture. But when the Declaration of Independence asserted that government's only excuse for existing is to protect the citizen's rights, including the right to pursue happiness, sumptuary laws were ruled out. Yet a pressure group, under Wheeler's leadership, actually repealed, temporarily, that part of the Declaration. It was by far the most spectacular success that factionalism has won since Washington's day, and it was not motivated by greed for money.

The third great success of a minority in imposing restrictions on liberty was the adoption of the Twenty-second Amendment. This makes it unconstitutional for any man to serve as President of the United States for more than eight years, if he was originally elected to the office, or for more

[1] The word comes from *sumptus*, Latin for expense, and sumptuary laws were defended as necessary to protect the national economic status; but as a matter of fact they were frequently based on the jealousy of noblemen who could not bear to see a rich tradesman parading in finery equal to, or surpassing, their own.

than ten years if he comes into it as successor to an elected President who dies, resigns, or is disabled.

This is an avowed effort to bind the future, because it does not apply to Mr. Truman, the President in office when the amendment was ratified; he is free to serve as long as he can win an election; but no future President can do so.

This is an assertion that the majority did wrong when they elected Mr. F. D. Roosevelt four times, which is tantamount to an assertion that the consent of the governed is not sufficient to establish a government in all circumstances. It repeals that passage in Jefferson's First Inaugural which asserts that "the will of the majority is in all cases to prevail." If it should be the will of some future majority to elect a man—Mr. Truman excepted—for a third time, the will of the majority in that case is not to prevail.

The question inevitably arises, why did the majority of the people thus bind themselves? The answer is, they did not. The Twenty-second Amendment was never submitted to popular vote. It was adopted by Congress, which has 531 members, and by thirty-six State legislatures—that is to say, it was a decision made by probably less than five thousand men, although it binds a hundred and fifty millions.

These men represent all parties and all shades of opinion, but one thing they have in common—they are all politicians, or they would not be in Congress or in a state legislature. It is, of course, to the interest of all politicians, with one exception, to deprive the President of a third term, or of a second one, if possible. The one exception is the President

himself. The point is that as long as one man—say Truman—holds the job, no other politician can hope to capture it. One man, Mr. Roosevelt, proved to be so extremely popular that there was no way of getting him out and he barred all other politicians from the White House for thirteen years. This was intolerable to the faction of politicians, and they have seen to it that it shall not happen again.

To call all politicians a faction may seem absurd, but consider Madison's definition: "By a faction, I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community."[2]

Politicians may disagree on everything else, but they have one thing in common—they all wish to be elected. They may be Democrats, Republicans, Socialists, Progressives, or Communists, but they all favor having as many jobs as possible open to competition. But this is an interest adverse to the interest of the community, for all the community wants is to have public business transacted honestly and efficiently, which is not accomplished by constantly changing the men who do the work. Politicians as a class come neatly under Madison's definition.

The success of this faction is not exactly what George

[2] *The Federalist*, Number 10, ascribed to Madison even by Senator Lodge *aîné*.

Washington predicted, for no one man has secured "his own elevation on the ruins of Public Liberty," but one faction seems to have done so. Yet again the money power was not involved. The members of the faction were not grasping at money. They claimed to be defending the traditions of democracy, as Comstock claimed to be defending morals, and Wheeler claimed to be defending health and happiness.

The record suggests, then, that the really dangerous faction, the kind of faction that three times has actually succeeded in partially subverting public liberty, if only for a time, is not a combination of robber barons, frankly out to loot the public treasury, but a group professing high moral principles as justifying their grasping at power. Huey Long is said to have declared that when fascism comes to this country it will come under the name of antifascism. Since most of us will admit that morality, temperance, and democracy contribute to happiness, the record seems to sustain Huey; for unquestionably the right to the pursuit of happiness has been restricted in the name of the pursuit of happiness more successfully than under any other excuse.

But once more we must take into account the fact that what has been is no reliable guide to what is going to be. At this moment many wise men are more worried by pressure groups than by any other recent development in government. The factions have grown with the country and some of them have grown faster. Organized labor, for instance, has acquired tremendous power within the past twenty

years. So has the farm bloc. So have the veterans. The art of lobbying has been refined and perfected to such a degree that the smoothest lobbyist of a generation ago would hardly know how to begin in the Washington of 1951. A governmental structure that can withstand such pressures as these groups can bring to bear must be powerful indeed. There is much reason to doubt that the American structure is that strong, so it is no wonder that intelligent people often waver in the faith that our system can long survive.

Fortunately, it is not by its own strength alone that the governmental structure resists the pressure groups—or so it has been hitherto. Washington was not deceived about the existence of dangerous forces, but he miscalculated the direction of their play. On the football field one has seen occasionally a pint-sized quarterback remain upright when tackled from opposite sides at the same moment by two giant ends, although either tackler alone could have brought him crashing to the ground. When government is hit from every side at once, the pressures resist each other. That which it might not be able to deny organized labor, if government stood alone, it may easily enough deny when it is propped up by opposing pressure from organized farmers. The National Association of Manufacturers might be irresistible if its demands did not sometimes run counter to those of, say, the American Legion. And so it has gone for more than a hundred and fifty years. There is no convincing evidence that it may not continue to go the same way indefinitely.

To a logical mind this is a bleak and unsatisfactory answer to the problem of pressure groups, factionalism, and bitter partisanship. It seems to leave everything to chance. It admits that the American form of government stands in daily peril of overthrow from within. It affords no sort of guarantee to freemen.

Nevertheless, it is the only answer consistent with the record. In recent years alarmed and impatient men have loudly demanded some sort of operation against the growth of factions. This demand has become much more insistent since the rise of the Soviet Union revealed a new peril in the existence of a radical faction in the United States. We have always had a radical faction, calling itself, or called, sometimes Jacobin, sometimes Socialist, or Anarchist, or I.W.W., and now called Communist. But hitherto its presence has been more an annoyance than a threat, for not since the first French republic has it been supported by a formidable alien power. But since Russia became dangerous we have heard incessant demands that it be made criminal to be even a theoretical Communist.

But that is thought control, and the moment the American government undertakes thought control it will no longer be American, but totalitarian, and the Russians will have won. To forbid like-minded men to associate is to abandon Americanism altogether. To forbid the organization of factions because factions threaten the American system would be like committing suicide to avoid being murdered.

James Madison took a different view. To him the shock when pressure groups come into head-on collision was not

a harrowing experience but, on the contrary, reassuring. He regarded it as the normal operation of a free society, and was content to look forward to an indefinite repetition of the process. The crash he saw as a cure. For if an evil arises in the East, huge, black, overshadowing government, it is a mathematical certainty that huge, black, overshadowing evil will arise in the West, and the bang when they come together is a promise that the republic will survive.

He put it more decorously. Our republican system, he said, by reason of its great size and infinite diversity, will always generate a cure for its own diseases.

As far as economic and ideological ills are concerned, Madison's theory has worked fairly well. He did not, however, forsee, or he did not discuss, the peculiar American propensity for doing evil that good may come—for adopting Comstockery to suppress indecency, for enacting prohibition to promote temperance, for making loyal citizens swear fantastic oaths with the idea of scaring some traitor. Yet the record shows that moral pretense is far more effective in persuading us to betray liberty than are bribery and threats. Against moral pretense there is no opposing force except the good sense of the common man. It has worked so far, but it has worked slowly and uncertainly. To make it swift and sure would be one of the greatest of all possible services to the country.

We are in danger from pressure groups. It is not to be denied, and nothing can be done about it, for freedom is

always dangerous. Yet after a century and a half there is still much truth in the closing words of Madison's essay:

> In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans, ought to be our zeal in cherishing the spirit and supporting the character of Federalists.

Chapter VII

STATES' RIGHTS ARE FOR ENERGETIC PEOPLE

WHEN the American colonies revolted against the British king in 1776 their status was uncertain. The Declaration of Independence had, indeed, announced that "these United Colonies are, and of Right ought to be, Free and Independent States." But at the time that was a mere assertion. It took seven years of war to establish it as a fact that they were independent of Great Britain, and even then it was not established that they were independent of each other.

Some wished them to be so. So many wished it, indeed, that the war had been raging for five years and was approaching its end before there was even a formal alliance of all the States. The Articles of Confederation were not finally ratified until March 1, 1781, and Cornwallis surrendered at Yorktown in October of the same year.

The Declaration had said "these United Colonies," but it was easy to skip over the word "united" as not being important, and many did so, including men as prominent as

Patrick Henry, the fiery orator of the Revolution, and Luther Martin, perhaps the most brilliant if by no means the soundest, lawyer in the country. Time was to prove that "united," far from being unimportant, was the key word; but much time was required to prove it—much time, hard fighting, a great deal of hating, and almost limitless vilification. Actually to unite these people who obviously had to unite, if they were to survive, was a terrific job.

Here is another problem that we are accustomed to regard as entirely modern, but which was well known to the men who wrote the Constitution. Distrust of the neighbors is very old stuff. The wars of the twentieth century have been provoked in large measure by the growth of what is called "nationalism," that is to say, patriotism strictly confined to the patriot's country; but modern nationalism was rivaled and sometimes surpassed by the jealousies and suspicions that the States of the union cherished against each other. In colonial days it broke out into open fighting more than once, and for many years after the adoption of the Constitution there were incidents such as the struggle between New Jersey and New York to control the harbor that both faced, and long boundary disputes among almost all the States, to say nothing of the Civil War.

The wiser men of that generation knew that thirteen completely independent republics scattered along the Atlantic coast would be an easy prey for some European power. Union was their only hope of survival. But the wiser men had to struggle against the romantic notion of freedom that

refused to submit to any bonds, even necessary bonds. Wise men always have to struggle against some very good and even noble people who cannot bring themselves to admit that a solid fact destroys the finest theory. The theory of these people was that Virginia, or Pennsylvania, or Massachusetts, or whatever their State might be, had united with the rest only for the purpose of throwing off tyranny, and, that being done, it was completely sovereign, completely free of bonds to any other power under heaven. In theory that was fine, but in practice it just wouldn't work. Virginia, or Pennsylvania, or Massachusetts simply could not stand alone in the world of 1783, the year when the treaty of peace with Great Britain went into effect. The United States were united, not merely for the purpose of making war, but because they had to be united in order to endure.

It is amazing to learn, as one examines the record, how many people could not see this at all. They were not convinced even after four years of bumbling, inefficient, almost helpless government following 1783, and when the Constitution was written, establishing a real and permanent union, there were so many who could not see its necessity that its ratification hung in the balance for two years.

It was this situation that spurred Hamilton, Madison, and Jay to write the *Federalist*, eighty-five essays published in various newspapers and afterward assembled in book form. The book is a plea to the American people to face the facts. It was written in furious haste and the authors were thinking, not of literary style, but of putting the facts in such

plain, unmistakable language that anybody with ordinary mental ability could not fail to understand them. The writers thought so little of their work as literature that they did not claim authorship; all the essays were published under the pen name "Publius" and to this day we are not absolutely certain which of the three wrote some of them.

But the intense effort to be clear, exact, and convincing resulted in a masterpiece. Nobody has written a better treatise on the theory of democratic government, and it had an immense effect. It is more than possible, it is probable, that it saved the Constitution.

The point to remember today is that this Constitution, now regarded as a very great achievement in the art of government, was adopted with extreme reluctance. It was a compromise throughout, and sixteen of the men who were in the Convention that produced it were so disgusted that they refused to sign it, or to recommend it to their constituents. Even as wise a man as Jefferson—he was Minister to France while the Convention was sitting and so had only an indirect influence on the work—was gravely troubled by it and at first was inclined to reject it. He did refuse to support it until he was promised that a Bill of Rights would be attached to it as soon as it went into effect.

There were—and there still are—two valid reasons for this reluctance of wise men to see the States surrender all their authority to the Federal government. One is positive, the other negative, but they are equally sound.

The positive reason is that government, being instituted to "effect the safety and happiness" of the people, according

to the Declaration, and "to insure the blessings of liberty" to them, according to the Constitution, cannot do its duty unless it knows what constitutes the happiness of the people and what sort of liberty they cherish. In a country as large as the United States these things are not the same everywhere. In Maine, for instance, a good furnace in a well-built cellar is an important contribution to happiness, but in Flordia people would rather have a well-shaded veranda. In California the law must be carefully drawn to protect water rights, or some unscrupulous people would hog it all. In Louisiana the law must be equally carefully drawn to make each person pay his fair share of the cost of levees and drainage systems to keep the land from being flooded.

Compared to great national problems these are small matters, but just such small matters are what make life pleasant or uncomfortable. But they vary, not merely from region to region, but from State to State, and from county to county within the states. It is flatly impossible for any human being, or any group located in one city, Washington or any other, to have the knowledge of local conditions that is necessary to good government everywhere.

Nor are all the conditions physical. The habits and manners of the people vary. There is a great deal of talk about the standardization of life in this country. Artists, especially, are always complaining that we are being reduced to one dead level of conformity, but it is far from being the fact, as yet. A Mennonite farmer in Pennsylvania and a Gullah Negro farmer on one of the South Carolina sea islands. live

in different climates, grow different crops, and eat different kinds of food; but in addition to that, they are different kinds of people, they cherish different traditions, they think in different ways, they pursue different pleasures. A form of government that would contribute to the sense of happiness and liberty of one, might seem horribly oppressive to the other—not, perhaps, in the large, important issues, but in the little things that make up day-to-day living.

Therefore the argument that the rights of the States ought to be carefully guarded is not, as some people believe, either a lawyer's quibble, based on the letter not the spirit of the law, nor a mere sentimental yearning for the past. It is a highly practical argument, based not on the way our forefathers lived, but on conditions that exist today and that will continue to exist as long as a single mind is unable to understand everything.

The negative reason is a matter of "spreading the risk," as insurance people say. When a man insures his house, it is just as likely to catch fire as it was before. When a thousand owners insure a thousand houses it becomes highly probable that one of them will catch fire; but in that case the premiums that nine hundred and ninety-nine have paid in will go to compensate the unlucky owner. He has spread the risk from one to a thousand; and a loss that might have ruined one, when spread over a thousand is so thin that it does nobody any real damage.

The art of government is tricky, difficult, and full of risks. Its fundamental principles may remain the same for centuries,

but laws to apply those principles must be adapted to the conditions of the time, and the conditions are constantly changing. The old idea that some great lawgiver, some Moses, some Solon, some Justinian, can hand down a complete code of laws that will last forever is just as much a myth as the idea that a giant named Atlas holds up the sky. For the law is not a principle, it is the expression of a principle as applied to a particular set of circumstances.

The Commandment "Thou shalt not kill" is a principle. Nobody ever thought it applied to killing by pure accident, and the Revised Version of the Bible translates it, "Thou shalt do no murder." This is the first principle accepted by a tribe beginning to emerge from complete savagery, and it has never been repudiated by any civilization in history. But the idea of what constitutes murder has changed many times, and is changing now. In England, a thousand years ago, it was not murder for one man to kill another in a formal duel; but it is murder now. It was murder then for a tenant to kill his landlord even to protect his wife or daughter from the lord; but it is not murder now.

The process of adapting the law to changing conditions goes on forever, and each such adaptation is something new and untried. It may be a mistake—frequently it is a mistake—but the process must go on nevertheless. It is a sensible procedure, then, seeing that mistakes in lawmaking are as inevitable as fires in a large town, to spread the risk by having a number of contributions to the common stock of experience. While the States retain and exercise their right of law-

making we have in this country forty-eight chances of hitting on the right solution of any new problem that may arise. We also have the chance of hitting on forty-eight wrong solutions; but the possibility that out of forty-eight solutions all will be right, or all will be wrong, is extremely remote. So when a wrong solution is adopted, the resultant damage will be relatively slight; while if a right one is found the other forty-seven States may soon profit by it.

This argument for States' rights, like the other, is neither quibbling nor sentimental. It is based on fact and plain common sense.

Unfortunately, both arguments rest upon an assumption that has not always been justified. It is the assumption that the States, possessing certain rights, will exercise them regularly and in the public interest. Presently we shall return to this point, but for the moment let it be merely mentioned.

In addition to the two sound ones, many unsound arguments have been advanced in support of the doctrine of States' rights. To list them all would make a long catalogue, but to name them is unnecessary because they are all broken down by the same fallacy—they argue for States' rights not in order that something shall be done, but in order that something shall not be done. There is no point in granting power unless it is to be used. No man, no institution, no state needs power in order to do nothing; only if some kind of action is to be taken is strength required.

In the past certain people representing interests that have cause to fear the power of government have argued loudly

at one time for States' rights and at another time for extension of the Federal power. Obviously, what they really want is no power at all in the hands of any government.

A conspicuous example of this was the attitude of the railroads when the regulation of freight rates in the public interest first became an important issue. At that time the railroads were the only form of long-distance transportation available to many parts of the country, especially the wheat-growing region west of the Mississippi. When the railroads were able to charge what they pleased for hauling wheat to market, they frequently charged so much that they took nearly all the profit out of wheat-growing, and the farmers found themselves working for nothing. The outcome was that many Western States set up railroad commissions to protect the public interest.

The railroads saw this as a threat to their profits,[1] so naturally they objected. Their argument then was that they were engaged in interstate commerce which Congress alone has power to regulate. But later, after the Interstate Commerce Commission had been established, and Congress began to pass laws regulating the railroads, these same interests argued just as loudly that States' rights were being violated when Congress stepped in. What they really wanted, of course, was no action at all by either State legislatures or Congress.

[1] As a matter of fact, this was bad reasoning, because fair charges, by stimulating business, are more profitable than charges so high that they kill off business; but this simple fact was too much for the minds of a good many railroad executives of the period.

Their concern for States' rights was all put on for show, and their argument was fraudulent.

When the States are active in passing laws to promote the general welfare, selfish interests are ardent defenders of the Federal power; but when the Federal government becomes more active than the States, they become just as ardent defenders of States' rights. Within the past twenty years the Federal government has been increasingly active in this field, so we have seen a tremendous revival of interest in the doctrine of States' rights among great industrialists and financiers who for the previous half-century had derided the doctrine. Their arguments are not to be taken seriously, because they are shams, not intended to bear upon the real point, but only to prevent any action.

Nevertheless, indefinite extension of the power of the Federal government does involve danger to public liberty, merely on account of the vast extent and great variety of this country. It is a fact that laws reasonable and necessary in one corner of this republic may be foolish and useless in the opposite corner. To apply the same law to all forty-eight States may seem at first glance to be just; but in practice it frequently proves to be unjust and oppressive, because conditions are not the same in all the States.

There is a reason, however, for the gradual extension of the Federal power into more and more fields that formerly were reserved to the States. In fact, there are two reasons—one is the time, the other the people.

There is nothing to be done about the time. This is the second half of the twentieth century and no power in the universe, or certainly none in this world, can set it back to the eighteenth. One effect of the liberation of the American mind that followed independence was the production of an almost infinite variety of ingenious contrivances that changed our ways of living and working and thinking. The railroad, the telegraph-telephone, the automobile, and the airplane, have enabled us to cover vastly more ground than our ancestors dreamed of covering. As our interests spread their legal protection must spread likewise, or we shall be left intolerably exposed. When practically all Florida oranges were sold in Florida, the legislature of Florida might reasonably hope to protect the interest of citrus-fruit growers; but now that the overwhelmingly larger part of the crop is sold in Boston, New York, Philadelphia, Chicago, and in the country between these cities, the interests of the growers are far beyond the protection of any one State legislature.

New England has complained for years that low wages and bad working conditions in Southern textile mills were ruining New England because the Southern mills could sell cloth cheaper, not merely in the South, but in San Francisco, Bombay, and Buenos Aires, where it competes with New England cloth. Maine potato growers feel themselves threatened by Idaho potato growers, and there is a fierce battle for markets among California, Florida, and southern Texas fruit growers. If economic throat-cutting is to be prevented over

such a wide area, the Federal government must do it, for no State's authority stretches so far.

The development of fast transportation and practically instantaneous communication has forced the granting of greater power to the Federal government, and to argue against it is a waste of time.

But there is another reason for the steady expansion of Federal power which cannot be dismissed as unavoidable. It is the failure of the States to exercise the powers reserved to them.

There seems to be a law of nature that power exists only when it is employed. As touching strength of body, that is known to everyone. If a man with a perfectly healthy arm puts it in a sling or in a plaster cast and refrains from using it only for a few weeks, at the end of that time he will find it so feeble that he can hardly use it at all, and a long period of steady exercise will be required to bring it back to its former strength.

Something of the sort happens to other kinds of power, including political power. Every advance of the Federal power in recent years has been defended by those who favored it on the ground that the Federal government had to act because the States, or a few of them, would not act for themselves. In some cases this is certainly true. The Nineteenth Amendment, giving women the right to vote, would have been unnecessary if each State had acted for itself. The proposed amendment prohibiting child labor never has been

ratified because every State now has some sort of laws on the subject and they, together with the Federal law barring goods made by child labor from interstate commerce have pretty well accomplished the purpose of the amendment.

It is the loss of States' rights by this second means that is most bitterly resented by some groups. In everything concerned with the movement of goods and people, that is, material objects, it is plain that authority, to be effective, must be nationwide. But it is not so plain that this is true of what concerns rights, privileges, manners, and customs, that is, nonmaterial subjects. It is in this field, say the pessimists, that we are losing our liberty, being reduced to subjection to one great central power, and standing in danger of regimentation to one dead level.

This tendency has been greatly speeded up in recent years by the development of what is called the "welfare state." The welfare state is, of course, nothing new. To "promote the general welfare" is one of the duties of government named in the Constitution. But to establish justice and insure domestic tranquillity are other duties in the same list, and for a long time they were regarded as much more important. The emphasis on them was so strong, in fact, that it resulted in the idea of the "umpire state," that is, a government whose main business, if not its sole business, was simply to act as a judge between man and man, seeing that nobody took an unfair advantage of his neighbor, but not itself concerned with either helping or hindering anyone.

This idea prevailed as late as the time of Grover Cleveland,

who expressed it perfectly in his second inaugural address when he said, "While the people should patriotically and cheerfully support their Government, its functions do not include the support of the people."

Forty years later this idea collapsed under the pressure of a fearful economic depression. Millions of honest and industrious people, willing to work, could find no work. Distress was everywhere and actual starvation not far away. No individual or group of individuals seemed to be able to do much to remedy the situation, so the demand arose that the power of the government be employed for the relief of the people. After all, men said, are we made for the government, or is the government made for us? If it is made for us, why not use it to promote the general welfare?

To people imbued with the ideas of Mr. Cleveland this seemed to be a complete overthrow of the American system, but it was, in fact, merely a shift of emphasis. Justice, domestic tranquillity, and the rest were not abandoned as ideals, but "to promote the general welfare" became for the moment more important than anything else.

The crisis was so huge, however, that not even the States were strong enough to handle it effectively. The depression following the panic of 1929 was, in fact, bigger than the nation; it was world-wide. It was the delayed effect of the war of 1914-1918 which had burned up the accumulated savings—the capital—of a large part of the world, and the economists and statesmen of the time were not clever enough to devise means of distributing the strain so as to prevent a

breakdown. By a series of makeshifts they staved it off for ten years; but the crash came at last and it was not less—probably it was more—severe for all the dodges by which it had been postponed.

Even as rich and powerful a State as New York could not do much to protect its people against a financial storm that, beginning in Austria, had swept throughout Europe before striking this country. When we are confronted with small difficulties we may haggle over precedents and legalisms, but in a gigantic emergency the question of who has a right to act is answered by finding out who can act. The power to meet such an emergency carries with it the duty to meet it, and no barriers based on theory can stand in the way.

After 1929 the government of the United States was the only agency strong enough to meet the situation, so the government of the United States met it. In doing so, it extended its power into fields it had never invaded before, with the result that the rights of the individual States were definitely narrowed. But they were theoretical rights, not being exercised because the States were incapable of exercising them. In this case it cannot fairly be said that the States were at fault. They were not too lazy or too stupid, but too weak, to deal with this crisis. The fact remains, however, that a sort of political vacuum was created and whenever that happens the nearest existing power will move in, just as the nearest air mass moves into a low-pressure area in the atmosphere.

The analogy can be carried one step further—when an

air mass moves into a low-pressure area there are atmospheric storms, and when political power moves there are political storms. They have been raging in this country for twenty years. Many honest people have not yet realized that the thing had to happen. They are convinced that it was all a wicked plot on somebody's part and that States' rights were deliberately murdered.

There is some basis for this opinion, but not much. A movement of that kind always goes too far, if only a little too far. It affords an opportunity to ambitious officeholders to extend their power, and some of them are sure to seize too much. Unquestionably there have been incidents of this kind in the United States within the past twenty years; and probably there would have been more except for the stiff opposition to extension of the Federal power. It is a mistake, therefore, to dismiss all defenders of States' rights as, at best, mere obstructionists or, at worst, insincere people using the name of States' rights to mask their real purpose, which is to escape control. To some extent the States' rights people have served as a useful check upon what is, at best, overenthusiasm on the part of the supporters of the welfare state, and, at worst, lust for power among ambitious officials.

But the other reason for the steady extension of Federal power—and this began much longer than twenty years ago—cannot be viewed so calmly. It is due not to the weakness but to the apathy of the States, which is a reflection of the apathy of the citizens of the States. Some observer of political history

has remarked that every nation—and he might have said every community—has, not the best government it could have, but the worst government it will tolerate. Certainly people never get good government except when they demand it insistently and know what they are demanding. If they sit around and let the politicians run it, their government will go from bad to worse. In the case of the States, it will eventually get so bad that the Federal power will have to intervene.

Sometimes it is not indifference, but lack of skill. One of the early extensions of Federal power, and one of the important ones, illustrates this process. It was when the Supreme Court, headed then by Chief Justice John Marshall, deprived the States of control of the navigable waters within their boundaries.[2] This was in 1824, not twenty years, but more than a century and a quarter ago, and the whole thing started because two States, New York and New Jersey, lacked the political skill to make a reasonable settlement governing the harbor of New York on which they both face.

This case is doubly interesting because it illustrates not only how the Federal government obtained extension of its powers by default, but also the difficulties the States have in managing certain powers. Four very strong men were engaged in this battle, on the New York side Robert Fulton and Robert R. Livingston, on the New Jersey side Thomas Gibbons and Cornelius Vanderbilt.

[2] In the case of *Gibbons v. Ogden*, a decision which Beveridge in his life of Marshall, says did "more to knit the American people into an indivisible union than any other force in our history excepting only war." Maybe; but there is no doubt that it struck a terrific blow at States' rights.

Fulton and Livingston had received from the legislature of New York a monopoly of the right of steam navigation in the waters of that State. At the time it seemed reasonable because Fulton, with Livingston's money, had built the first commercially successful steamboat. But after they had died and the monopoly had passed to their heirs and successors, the thing became an unreasonable restriction on business. So Gibbons and Vanderbilt, both very rugged individualists, proceeded to break it by operating a steam ferry from Elizabethtown to Manhattan.

The two States should have done then what in fact they did a century later—get together and set up a competent authority to regulate the business of the harbor so important to both. But they did not. Without doubt one reason for the failure was simply that there was nobody in the New York legislature who could stand up to the Fulton-Livingston interests, nor a statesman in New Jersey hard-fisted enough to handle Tom Gibbons and Commodore Vanderbilt. The result was a row that became an open scandal, in which the courts and law-enforcement officers of both States were made to look silly. Eventually the case got into the Federal courts and at last to the United States Supreme Court, which decided that no State had the right to close its waters to any legitimate traffic.

As we look back on it now, the decision seems reasonable and right. If it had been reached by agreement between the two States, there would have been no reason for the United States courts to interfere and the right of a State to control

its own harbors would not have been challenged at that time. But here was a situation already bad and rapidly growing worse which the States concerned were unable or unwilling to correct. The situation revealed a political vacuum, a spot in which no power was operating, so the adjacent power—that of the Federal government—moved in.

This is the third way in which the doctrine of States' rights has been whittled down. The first way—the growth of the country and the invention of new and faster ways of getting about and of exchanging news, goods, and ideas—is beyond the control of government. We simply have to accept it and act accordingly. The second way—the activity of shrewd fellows who misuse the doctrine of States' rights in order to escape from any kind of control—has not been nearly as important as some people think. In any case, by using our common sense we can stop it. But the third way—the failure of the States to employ for the general welfare the powers reserved to them—is a real problem, the most difficult that democracy has to solve. For it depends upon the attitude of the people, that is to say, upon you and me, not upon the President, Congress, and the Supreme Court, nor upon governors, mayors, and State courts.

The Constitution makers tried to solve this problem by a formula, but formulas don't solve such problems. The Tenth Amendment[3] reads, "The powers not delegated to the United States by the Constitution, nor prohibited by it to

[3] Usually regarded as the last item in the Bill of Rights because the first ten amendments were all ratified together; but the ninth and tenth refer to nondelegated powers, so the first eight are the real Bill of Rights.

the States, are reserved to the States respectively, or to the people."

The trouble with this is that it doesn't accord with the nature of power. Power exists when it is exercised. We speak of "latent" power, or "potential" power, but that is merely a form of words meaning that we believe that power would exist if it were called for. But a power that is "reserved" is simply a power that is out of being for the time. When it isn't being used, it isn't power.

The only democracy that possesses power is a democracy that is using power. It is a strange—to many people, a shocking—fact that fifty-six per cent[4] of the qualified voters in the United States are politically as powerless as the people in the Russian slave labor camps. These are the fifty-six per cent who do not vote. A king may lose his throne in two ways—a usurper may drive him off it, or he may abdicate. He may abdicate of his own choice, but he has lost his throne just as effectively as if a usurper had taken it away from him. In America, the Fourth of July orators frequently say, every man is a king. But is the Duke of Windsor, who abdicated, a king? Not if the word means anything. An American who is qualified to vote and doesn't vote has abdicated his democratic kingship. He will not work at the job; therefore power is out of his hands and he is no more a king than any other man who has surrendered a crown. His sole advantage

[4] Based on the election returns of 1950, an off year, and so a better test of political interest than a year when passions are running high and emotion, rather than reason, drives voters to the polls.

over Windsor is that he may resume his sovereignty by doing his civic duty.

Even the minority, the forty-four per cent who run the country, work at it little and fitfully. If they get to the polls on election day they are doing better than most; if they vote not only on election day but also in the primaries, they are doing better than three-fourths of the rest; if they not only vote in primaries and in general elections, but also talk over the situation with their neighbors, they are doing better than all the population except about ten per cent.[5]

There is the real explanation of what has happened to States' rights. It is also a forecast of what can happen to all other democratic rights. When a man allows himself to look upon politics as a bore, he ceases to be effectively American; and more than that, he is a less effective human being because he is acting on a false idea, and people who act on mistaken notions are effective in nothing except in doing harm.

Men get bored with politics because they have the false idea that political activity means nothing but running for office or trying to help some friend get elected. That is, in fact, the main part of it as far as the average politician is concerned, but it is the least important part as far as the rest of us are concerned. It matters very little to the average citizen what name is borne by the mayor, or the governor, or the senator; it is far more important to make sure that, whatever his name or his party label, he is an honest man. Even

[5] Elmo Roper and Louis Harris in the *Saturday Review* for April 7, 1951, presented some curious and depressing figures on the political activity of ordinary Americans. They show that this activity is very slight indeed.

honesty is not the most important qualification, for any candid student of history must admit that smart rascals have not done this country as heavy and lasting damage as has been inflicted on it by honest fools.

Even the crooks who hope to rob the state object to bribery, because it is expensive. They would much prefer to deal with officials who can be bamboozled, because that costs them nothing.

Thus the duty of good citizens doesn't end with opposing corruption in government, important as that is. A government may do nothing definitely wrong and yet be a bad government, if it does nothing that is right either. The French have a term of contempt for a sort of ruler who has done them more damage, in their long history, than such terrible fellows as Simon de Montfort and Robespierre; they call them *rois fainéants*, "loafer kings." It describes pretty well the sort of government that has afflicted most, probably all, the American States at one time or another, and that is largely responsible for their political decline.

This is not the only cause. States' rights were bound to suffer some restriction as the country grew larger, more crowded, and better equipped with means of travel and communication. They have suffered somewhat from the efforts of shrewd men trying to grab either money or power to which they were not entitled. But the most important cause of their decline is the fact that too often they have been loafer kings, refusing to exercise their rights and so permitting them to wither.

This is also the one cause that the ordinary citizen, not interested in snatching some office for himself or for a friend, can really take in hand. For the State doesn't become a loafer king when there is a large and lively public opinion demanding that it get on the job. Most of the really important improvements in the art of government—certainly until recently—started in just that way—a strong public opinion in some State compelled the State government to try out the idea, and its success caused it to be adopted, first by neighbor States, and eventually by the Federal government.

Such States have had no cause to complain of the decline of their rights. The worry was all on the other side—the rest of the States and the Federal government found themselves being dragged at the heels of those States that were making vigorous effort to promote the general welfare.

In sum, the encroachment of the Federal authority, which without doubt could be dangerous to liberty, is best prevented by good State government; for rarely if ever in our history, has a State been deprived of any right which it was exercising wisely and vigorously in the interest of its people.

But that gets us nowhere—"us" meaning you and me and the million others who are so busy trying to make a living that we think we have no time to give to politics. For there is not now, there never was, and there never will be a good State government that isn't made so by a lively and loud demand for excellence on the part of the State's voters. Twist and squirm as we may, we cannot get away from the

fact—democracy, usually defined as the right of the people to rule, means first of all the duty of the people to rule. They have not always and everywhere been willing to discharge that duty, and whenever and wherever they have refused the government has gone rotten and rights—States' rights, individual rights, all sorts of rights—have withered away.

To the extent that the States' voters are willing to exercise them constantly and intelligently, States' rights, even in the twentieth century, are safe enough; but not an inch further.

Chapter VIII

FREEDOM OF OPPORTUNITY IS FOR GREAT PEOPLE

EVERY problem discussed in this book, so far, has proved, on examination, to be modern only in the sense that it is presented to this generation in a new form. The difficulty, whether it involved free speech, free enterprise, free association, freedom of conscience, freedom of thought, or States' rights, was faced in some other form—sometimes not a very different form—by the men who established and have maintained this republic. Perhaps it cannot be said that they solved any of these problems permanently; but it cannot be said that they were defeated by any of them. The country could not have survived and flourished if our forefathers had met utter defeat anywhere along the line. It is reasonable to assume, then, that if we still possess the qualities of mind and character that earlier Americans had, we may hope for the same success, as far as these problems are concerned.

But there is one American problem that is wholly modern,

in the sense that the Founding Fathers did not face it in its present form or in any other. This is the problem of prodigious weight in the scales of civilization.

When the United States of America was a thinly settled, backwoods country, with little wealth, little foreign trade, no army, and almost no navy, nothing that it did had much effect on such giant powers as France, Spain, Austria, and England. Intelligent Europeans admitted, even a hundred and fifty years ago, that our experiment in government was interesting and might be significant. True, some learned Europeans, as, for example, Dr. Samuel Johnson, did not admit even that much; but the truth is that Dr. Johnson, for all his learning, was not politically intelligent; nor was the party to which he belonged, the Tories, called the party of reaction, but really the party of inaction. It was not that they wanted to go backward but rather that they did not want to move at all. Refusal to do anything is rarely intelligent in politics. As for the great masses of Europe, they were hardly aware that the experiment was going on, and if they knew it they were not interested, for they could not see that it had any effect on their daily lives.

But today the United States has a larger population than any nation in Europe except Russia. It has greater wealth than any other nation in the world. It has by far the largest navy in the world, and a tremendous army. It is unquestionably the most powerful nation in existence, with the possible exception of Russia. Therefore, whatever this re-

public does must be carefully considered by every other nation, for our course of action is sure to affect them, for good or for ill.

For instance, if this country were to cut off, or to reduce sharply, its purchases of rubber and tin, there would be a financial panic in Singapore the next day, and Bolivia would be thrown into consternation, for much of the prosperity of both regions depends upon their sales of rubber and tin to us. A few years ago when the United States altered the price the Treasury Department was paying for silver, the monetary systems of China and India were thrown into confusion, for silver is the base of their currency. When we raise or lower the tariff businessmen in every country in the world have to make new plans.

Naturally, when the United States adds a new carrier to its fleet, a new group to its air force, a new division to its army, the rest of the world takes notice; but the moves most significant to them may have nothing to do with the armed forces. By ruining the trade of a small nation we can do it almost as much damage as if we had invaded it; and our purchasing power is so enormous that we can seriously affect the trade even of the greatest.

We are accustomed to think that matters of commerce and industry are entirely our own affair. As long as we do not invade any other nation's territory, or block its commerce, or mistreat its nationals when they visit this country, why should anyone complain of us? Peaceful trade is no

crime and we claim the right to trade on the best terms we can make.

Unfortunately, this argument, reasonable as it seems, ignores certain facts that cannot be ignored with safety. We have not been an aggressive nation, except against the Indians. Even the attack we made on Mexico in 1846 was much better justified than some modern historians are willing to admit. But while we have not perpetrated great military conquests we have been and are a tremendously expansive nation, and peaceful expansion may be hardly less threatening to others than armed aggression.

We live in the same world with other nations and there is only so much room on this earth. One may argue that as long as we keep to our own part of that world nobody has a right to criticize us, but it isn't that simple. Our part is still a part of the same world that others inhabit, and it is closely connected with all the other parts.

When two sleepers sleep in the same bed, it may be argued that if each keeps to his own side there should be no trouble. But suppose one is a slender stripling, while the other weighs three hundred pounds—in that case, whenever the fat man turns over the little fellow is in danger of being tossed out altogether. The United States has become so huge, especially in the economic sense, that its sheer weight tends to tilt the whole world to the discomfort and sometimes to the great distress of its other inhabitants. In the middle of the twentieth century, in fact, only Russia had a chance of

balancing us; so the rest of mankind had to watch anxiously every move that Russia and this country made.

As far as we are concerned, the situation is new. In the beginning this nation was tiny, remote, and poor, so what it did with regard to its own affairs made little difference to the rest of the world. Even as we grew stronger, but were still absorbed in the business of perfecting our system of government and subduing the continent we inhabited, the effect of our acts upon others was not of first importance. So we have no experience of the condition that confronts us. It is strictly a modern problem, almost the only great one that is wholly modern, wholly beyond the view of the Founding Fathers.

Examine Washington's Farewell Address, and you will find that it is in large part a solemn warning to Americans not to imagine that they were then what they have since become, that is, a nation grown so huge and powerful that its decisions affect all mankind and must be made with that fact in mind. "Europe," said Washington, "has a set of primary interests, which to us have none, or a very remote relation." In 1796 that was perfectly true; but in 1951 Europe's primary interest is to escape being overwhelmed by Russian imperialism revived under the name of communism; and no rational man can seriously maintain that this has "none or a very remote relation" to our primary interest. On the contrary, it is identical with ours.

"Our detached and distant situation invites and enables us to pursue a different course," said the first President. But

our situation is no longer either detached or distant, so we are neither invited nor enabled to pursue a different course. If western Europe succumbs to tyranny, we shall not long remain free. We recognized the fact and responded by fighting in 1917, in 1941, and again in 1950; and we are employing our wealth and such skill as we have to consolidate not our position alone, but that of all the free world.

At this point the argument of this book takes on a new and different tone. It is a less confident tone, and common honesty demands that the reader's attention be called to the fact that he is now treading on slippery ground. Hitherto the discussion has concerned problems that affect democracy as a national system of government, and little examination was required to show that these problems are, practically without exception, new only in the form in which they present themselves to this generation. The heart of each difficulty was faced by our Fathers, and in each case they had the wit and the spirit to deal with it, not perfectly perhaps, but well enough to enable the nation to survive and grow great. Hence it was possible to say, with some assurance, that if we possess the same wit and spirit, we can overcome those difficulties again.

But now we are facing a problem that the Fathers neither encountered nor imagined. Washington, indeed, was horrified to find romantic fellows imagining, or attempting to imagine it, and his last word to the nation urged it to drop that nonsense. But it is not imagination now, it is massive

fact, and we cannot take our cue from Hamilton, Madison, and Jay. We cannot take it from Jefferson and John Adams, not from Jackson or Lincoln, not from any of our great leaders down to Theodore Roosevelt. The first man who really had to wrestle with the problem was Wilson, who was of the generation preceding this one.

Nor is ancient, medieval, or modern history of other nations of much assistance. The situation has arisen before, not once but repeatedly—Toynbee counts twenty-one times—and there is a conventional way of dealing with it. Heretofore, when a nation has attained the level of greatness at which its weight tipped the world, it has invariably proceeded to employ its strength for its own advantage, regardless of the effect upon the rest of the world. Russia, sharing our situation, has adopted that conventional procedure, and numbers of our own people are insisting that we adopt it.

This conventional procedure is complex and varied in detail, but in its broad outlines it is simple enough. One power, having become dominant in its part of the world, proceeds to attach satellites around it, whether by alliance, as Athens did, or by outright conquest, as Sparta did. In either event, the satellites come more and more under the domination of the great power, until at length it is able to employ both their economic and their military strength to achieve its own ends. If, as has happened over and over again, a comparable power has risen in some other quarter, as Assyria did against Babylon, as Sparta did against Athens, as Carthage did

against Rome, and as Russia has risen since 1917, there is eventually a duel in which one of the giants gives the other a knockout blow and thereafter dominates the world, or as much of it as the conqueror knows.[1]

If the United States and Russia follow this system, as dominant nations have followed it, from Assyria to Rome, it is easy to predict the main outlines of the history of the next fifty years. After a period of sparring during which each of the great powers will collect as many allies as it can, there will be a titanic collision in which one or the other will be knocked out; and thereafter either American democracy or Russian communism will dominate the world.

Many Americans, including some whose honesty is beyond question, and whose intelligence commands respect, stand ready to accept this as inevitable; and every American with any intelligence at all must admit that it is possible, and therefore we should prepare for it, in case it proves to be inevitable.

But there is one good reason for not accepting and resigning ourselves to it until it is forced upon us. This reason is the fact that it is fatal. In every case known to history—every case, without exception—victory has ruined the victor. Material ruin is not always prompt and complete; Rome, for example, continued to increase in wealth and

[1] Arnold J. Toynbee in *A Study of History* analyzed this process carefully with reference to twenty-one civilizations. Some of Toynbee's inferences have been challenged, but not many of his facts; there is no doubt that things have gone this way often enough to establish a pattern.

power for some centuries after the destruction of Carthage. But the effective rule of the Roman people, real individual liberty, went down with Carthage and never rose again.

Of course, if one measures the greatness of America by the millions of dollars in her banks, the millions of men in her armies and the millions of foreigners under her sway, there is something to be said for following the old pattern, arming to the teeth, and preparing to take our chance of knocking out Russia. It is not an ignoble course. It requires courage, and there is a certain grandeur in it. But it is imperial grandeur, which is of a different order from the glory that the founders of the republic hoped to attain. The American Empire might well become the greatest the world has ever seen; but it would be an empire, more extensive and more powerful than any other, but the same sort of thing.

There are those who hold that this country's real value to mankind is the fact that it is not imperial except in size, wealth, and power. In nonmaterial things, in its aims, its ideals, its methods, it differs radically from the empires of history. The loss of these things would reduce it at once to the same sort of master that the world has seen over and over—to the class of Rome, Carthage, Macedon, and so on back to Babylon and Assyria. It would no longer be unique, and when it became like all the rest its real value would be lost—a value that could not be replaced by any amount of material wealth.

The practical question is, does this mean anything? Grant-

ing that it is an attractive ideal, it has no significance if it is impossible of attainment. We know that the basis of physical science is the belief that similar causes, working under similar conditions, will produce similar results. We have reason to believe that it is as true in psychology as it is in physics. We start, therefore, with a reasonable belief that what certain causes have already produced twenty-one times they will produce a twenty-second time, unless something new has been added to the situation.

Therefore, those who hold to the theory that the United States may escape the fate of every other dominant world power, cannot be taken seriously unless they can show that there is something new in the present situation, something that was not present in the earlier ones. If everything is exactly as it was before—that is, everything important, for no two situations are alike in all the small details—then the only sensible assumption is that the outcome will be exactly the same—again, in all that is important, for the outcome is never the same in every detail. If, however, there is an important new factor in the situation of the United States, one that was not present in the otherwise similar situations that confronted Rome, and Babylon, and Assyria, then all predictions as to the outcome are upset, and one man's guess is as good as another's.

It is the belief of the writer that an important new factor is present, and, because of its presence, those prophets are in error who hold that we are irrevocably doomed to follow the course of all the fallen empires of history.

In the document that created the United States of America this new factor is described in the words "to secure these rights governments are instituted." The rights referred to are life, liberty, and the pursuit of happiness, individual rights that cannot be conferred on a business corporation, a religious sect, or a political party. The thing for which the government was instituted is certainly its most important business unless, somewhere along the line, we have changed our minds about the purpose of government.

The Declaration of Independence is an American document, issued by Americans and applying only to Americans. It speaks of "governments," in the plural, but it speaks with authority about this government alone. As a matter of historical fact, none of the great empires that have fallen was instituted to protect the rights of individual men. There was a time, it is true, when the men of Rome boasted that none should lay hands on a Roman citizen anywhere in the world "except a legion come to avenge his blood," but that was incidental; the empire was instituted for no such purpose, but to serve the gods. Church and State were one; the consuls offered sacrifices as part of their official duties and toward the end of the story the emperors themselves became gods. So it was with the other empires. Alexander the Great posed as the son of Jupiter Ammon, and the rulers of all the ancient giant states claimed the worship of their subjects.

Even those European countries that have become democracies did not originally institute their governments to protect the rights of individual citizens. This republic is the

first that was founded for that specific purpose. To the extent that this purpose remains, therefore, it comes to a dominant position in the world with an element in its make-up not shared by any earlier world power. What difference this will make in the course of history no man knows; but it is reasonable to suppose that it will make some difference and it is conceivable that it might change the whole pattern.

It is true that what we shall be fifty years hence is not altogether for us to decide. In part, at least, our fate is in the hands of the Russians, for they may force us off the course we have pursued thus far and into the path followed by the other empires. To some extent, they have already done so, for even now we are militaristic to an extent undreamed of as recently as 1900. Great skill and great determination will be required to hold the United States to the democratic ideal for the next generation.

We look for that skill and determination to a larger segment of the population than has taken an effective part in the government of any great empire of the past. By the time Rome became mistress of the world the tribunes of the people were no longer popular representatives in any real sense, and even the senate had been stripped of much of its power. As for the other empires none even pretended to look for guidance to the people.

Yet with fifty-six per cent of its qualified voters not taking the trouble to vote, the governing class in this country is still relatively large. Perhaps the word should be "fluid,"

rather than "large," because in any country at any given moment the people who are actually running things are few in number. Here they consist of the President, some members of his Cabinet (but never all ten, for every Cabinet has some deadwood), and twenty or thirty Senators and Representatives out of five hundred and thirty-one. On rare occasions some private citizen crashes the gate and forces action upon the government by threatening its political life, as Wendell Willkie did between 1936 and 1940. But it is safe to say that at any particular moment the men who are in position to do anything important in the United States government number less than fifty.

The significant fact is that the few dozen really important men are constantly changing and are never drawn from any one class or one social or one economic level. For instance, at the moment when this book was being written, in 1951, of the highest officers in each of the three branches of government, the executive, legislative, and judiciary, two started life as farm boys—the President and the Speaker of the House[2]—and the third as a small-town lawyer—the Chief Justice. But this is no indication that the government is proletarian, for at the same time both the Secretary of

[2] The Speaker of the House is the highest officer of the legislative branch because the President of the Senate does not belong to the legislative branch at all. He is the second man in the executive branch, the Vice-President of the United States. He was assigned to that duty, partly, no doubt, because he has nothing else to do, but mainly because, as Senators represent States, not districts, it was felt that to raise one of them to the presidency of the body would be to exalt his State unduly. Here is another illustration of the intense jealousy of the States when the Constitution was being written.

State, Mr. Acheson, and the leader of the opposition in the Senate, Mr. Taft, came from homes in which they had enjoyed every advantage that wealth and culture could give them. This situation, or something like it, has prevailed in practically every administration since that of Andrew Jackson. The men of power have included rich and poor, graduates of famous universities and self-educated persons, sons of distinguished families and nobodies.

Today a comparable situation exists in Great Britain, but it is a recent development. To the end of the first World War the British ruling class, although democratic within its own ranks and wonderfully skillful at absorbing brilliant individuals from other classes, was quite distinct and included not more than a fifth of the total population.[3] The rest of the country consented but did not really take part in government.

In France since the Revolution there has been a fairly large participation in government on the part of the people, and the rulers of France have been drawn from all classes, but the machinery of democracy has never worked as smoothly there as in the United States. The result is that the administration is constantly being turned out of office on what seem to Americans rather frivolous pretexts. In this country a Congress, once in office, cannot be changed for two years, nor the executive for four, while the judiciary

[3] This is the estimate of Herbert Hoover in *The Years of Adventure.* Mr. Hoover knew prewar England intimately, so his opinion commands respect, but twenty per cent is a higher figure than some observers have set for the ruling class.

cannot be changed at all except where a judge can be proved to be dishonest, insane, or grossly incompetent.

The net result has been a government drawn from as many different sections of the population as the French, but with some of the stability of the British; and it has worked well.

Never before has a government of this type reached the position that the United States of America occupies today. The British Empire at the height of its power, under Victoria, was not quite in our position, for although it was believed to be stronger than any other nation, individually, a combination of Germany, France, Austria, and Russia would almost certainly have been too much for it. In fact, the much weaker combination of Germany, Austria, and Turkey almost did for the British Empire after 1914, even though Britain was assisted by France and Russia.

Throughout their period of dominance, therefore, the British had to shape their policy in such a way as to prevent an easily possible combination against them. They were far from having a free hand. They could not concentrate on dealing with one foe. They had to look in four or five directions at once, and any decision they made could be challenged on more than one side.

Our situation is very much clearer. The seven or eight great powers of Victoria's time have been reduced to two, and the possibility of a real coalition against us no longer exists. What we have to fear is not that Russia will organize Europe, but that she will conquer Europe and compel the western nations to fight against us.

Confronted with such a situation Rome, or any other dominant power all the way back to Assyria, would have known what to do. It would have adopted the simple strategy of Nathan Bedford Forrest—"git thar fust with the mostest men." According to the old rules, our obvious move is to conquer Europe first and meet the Russians at their own border.

Let it be repeated for emphasis, the trouble with that is that it means national suicide. American arms might be successful. It would be a long and desperate war, but it is just possible that we might win it. But it is flatly impossible that we might win it and still be the America that we have been, that is to say, a nation dedicated to the protection of the lives, liberty, and happiness—or the pursuit of happiness—of its citizens. We would be no more than another empire, dedicated, like all the others, to the extension and defense of the empire.

In that case, all the conditions that have already led to the ruin of twenty-one civilizations would be present, and there would be no rational ground for supposing that the twenty-second would, or could, take any other road.

But we are not, as yet, committed to this course, and in the long, bleak story of the rise and fall of empires there are at least two suggestions, or, rather, hints, that there is another way out. These two hints are found in the records of the early Athenian and the late British empires.

After the Persian invasion had been smashed, largely by

Athenian valor and skill, Athens formed something fairly comparable to the United Nations (with the important difference that Persia wasn't sitting in the Council armed with a veto) and for a long time it managed to "contain" the Asiatics without a first-class war. The original plan of operations was precisely the plan adopted more than two thousand years later in Korea—when trouble broke out each of the city-states comprising the membership sent a contingent the size of which was proportioned to its means. Athens, as the largest, contributed the largest force and usually the commander.

As long as the original plan was followed the scheme worked and all the Greek cities remained free and, for the most part, prosperous. It eventually went to pieces because in the end the imperial spirit crept into Athens itself, the former allies were reduced to tributaries, and the leader became a tyrant. How that happened is a long and complicated story, but it happened and it was the prelude to the end.

Two thousand years and more passed and then Britain, shocked by the American revolt and swept by the rising tide of democracy in the first third of the nineteenth century, reconsidered her colonial policy. She did nothing drastic—the British rarely do anything drastic—but the American experience proved that the idea of holding colonies purely and simply for the benefit of the mother country would not work any longer; and the democratic idea that governments are made for people, not people for governments, permeated her thinking to such an extent that

her wise men decided that the old idea, even if it worked, would still be wrong.

Accordingly Britain edged over to the new idea that an empire, like a nation, must "promote the general welfare" of all its people if it is to maintain their loyalty. So, little by little, the British Commonwealth of Nations emerged. It was done so gradually that few observers realized what was going on. For half a century all the world saw was the spectacular battle between Benjamin Disraeli, gaudy, realistic, expansionist, and William E. Gladstone, stolid, mystic, consolidator. Not until long afterward did it become apparent that between them they were building an empire of a new type, one so peculiarly constructed that in 1914, when the long-feared hostile combination was made, and the mother country was hard put to it, five great nations, Canada, Australia, New Zealand, South Africa, and India, instead of seizing the opportunity to cut loose, poured out blood and money to defend the empire.

Two wars of a ferocity unheard-of in the world before, have sapped the strength of the British Empire. But it did not fall, and it was not reduced by its own inherent weakness, but by assaults from without.

Here, then, are two hints that under certain conditions empery, or something closely resembling empery, is possible without leading directly to internal collapse followed by ruin.

In each of the two cases on record the leading power was democratic, Athens at the beginning of the experiment,

Britain in the latter part of it. Democracy seeped out of Athens and the Athenian Empire collapsed; democracy seeped into Britain, and the British Empire survived two assaults by a world in arms—weakened, to be sure, but not reduced to ruins. Surely, it is not unreasonable to infer from this that democracy, provided it is real and vigorous, can be an element of strength even in an imperial adventure.

Whether American democracy is sufficiently real and vigorous to serve is another question; but the possibility cannot be dismissed. Furthermore, the setup of American democracy—the machinery by which it operates as distinguished from the spirit that animates it—is clearly superior to any other as yet devised unless, perhaps, by broadening the base of their ruling class some may eventually equal or surpass us.

This assertion may startle some people, for the defects of our governmental machinery are more apparent than its virtues. It is not to be denied that our system is a creaking and lumbering machine, but the assertion was not that it is perfect, or anywhere near perfect. It isn't. It is merely somewhat better than any other.

In Athens, for example, the system of representation had not been devised. Every man represented himself and voted for himself. Every demagogue appealed to each voter to think of himself, and to the voter that seemed reasonable, for was he not attending the council to protect his own interest? This was fatal, for when a man is engaged in law-

making, he is engaged in that which affects others, and if he fails to think of others he will do a bad job.

Millions of Americans do a bad job at the polls on election day, but fortunately that is not the last word. The man elected must administer the work, or do the lawmaking, or render the judicial decisions; and he is not representing himself alone, but all those in his constituency; therefore he cannot think of himself alone without bringing down on his head the wrath of the voters.

One is often tempted, Heaven knows, when viewing the work of a bureaucrat, or Congress, or a State legislature, or even, sad to say, a court, to believe that nobody is doing any thinking at all. But it is not so. Even in the most idiotic debates in American legislative assemblies the quality of thinking will compare favorable with most of the opinions of cracker-barrel philosophers in country stores, or the loafers in city poolrooms. A representative cannot, as an individual voter can, consult none but his own interests and prejudices. He may be a complete poltroon, but the mere effort to decide which political boss he fears most compels him to do some thinking.

In addition the American system, by developing in just the way that Washington feared, may have gathered strength, rather than weakness. Parties have sprung up. The parties have split into factions. The factions have split into pressure groups, some supporting an economic interest, some grouped around a demagogue, but each struggling to prevail,

first within the faction, then within the party, finally in the nation.

This is deplored by many honest and intelligent men born nearly two centuries after Washington. It results, they say, in a dreadful system of misrepresentation. The French have attempted a remedy by devising an extremely elaborate system of voting whereby each fragment of the electorate may have as much representation as its numbers may indicate. The French are a logical people. If the Communists cast ten per cent of the vote, they say, it is no more than just that they should have ten per cent of the representatives. The argument appeals strongly to many Americans and in some places, New York City, for instance, efforts have been made to establish proportional representation. A voter casts a ballot, not only for his first choice, but also for a second and perhaps a third choice. Then if no candidate receives a majority, second choices are added to firsts, and so on until a majority is given to someone.

On paper, this looks fine, but in practice it encounters the objection that a government, as a government, cannot go seventeen ways at once. A government is a unit, and it must move in one way only. When a decision is to be made, many choices may be presented, but only one can be chosen. As a nation, we must go in one direction and if forty-nine per cent of us think that we should go the other way, what of it? We cannot go two ways at once, and the way chosen by the majority must be followed by all.

A logical mind may ask, where, then, is individual liberty?

The answer is that individual liberty ended when the choice was made. After that, the only freedom left to the American citizen is freedom to use every peaceful means to persuade the majority that they are wrong.

Our device to give minorities a chance to make their influence felt consists in holding primaries to choose the nominees for the general election, and, in many States, if no one receives a clear majority in the primary, to hold a runoff primary between the leading candidates. The objection to this is the appalling expense involved in holding what are, in effect, two or three elections. It is an objection that we have never been clever enough to overcome; but it is perhaps less serious than the system of proportional representation as it is practiced in France, for an American administration, once elected, is able to proceed in one direction and is not prevented from acting at all, as French governments are, all too frequently.

The policy of "winner take all" in American elections is frequently denounced as a denial of democracy, but it isn't. It may be a denial of strict justice, but not of democracy. A candidate who receives fifty per cent plus one of all the votes cast is just as definitely elected and is given just as much power as if ninety-nine per cent of the voters had supported him. This, say the complainers, leaves practically half the people unrepresented in government, which is not right. But they overlook the fact that it works both ways. The winner has to take all the responsibility, too, although barely half-plus-one of the voters may be support-

ing him; and it may be reasonably argued that if he has to take all the responsibility, he should have all the power.

In any event, with all its imperfections the American system has held together for quite a long time. The idea of having not one but two or three elections before a man is finally chosen for any important office is clumsy and expensive; but it does give factions a chance to show their strength and to blow off steam. A faction defeated in the primary may be very indignant, but as a rule it settles down before the general election; for if it can't win in a primary it is nonsense to suppose that by organizing an opposition it could beat both major parties in the general election.

This is why the two-party system has prevailed in the United States from the beginning. It is only a rough guess at what the people really want, but it has the merit of concentrating power and responsibility in the same hands, which is a very great merit indeed. More than that, in the end the people have always managed to get enough of what they really want to make them tolerate the system.

Furthermore—and this is the real strength of the system—there is not a thing in the world to prevent anybody's forming a third, a fourth, or a fifth party. As a matter of fact, in practically every Presidential election there are more than two parties in the field, and in the election of 1948 there were eight—Democratic, Republican, States' Rights, Progressive, Socialist, Prohibitionist, Socialist Labor, and Socialist Workers. The two big parties combined got forty-six

million votes, and all the other six got less than three million, but they were in the field, and anyone who wished to vote for them had a right to do so.

It sounds odd to say that the strength of the two-party system is the fact that it is not defended by law, but that is the way it has worked out. Knowing that he is free to quit the big parties whenever he likes, the average American has stuck to them; for although they are slow and ponderous, over a period of years they do work his will.

There is no doubt, regardless of what cynics may say, that in the middle of the twentieth century, the moment when it found itself one of the two giant powers dominating the world, the United States of America was democratic. Furthermore, it had a longer experience of successful operation of democratic government than either Athens or Britain had when they touched the summit of power. So what this country will do in its new position cannot be predicted from what Athens did, or what Britain did; and certainly not from what was done by any of the nondemocratic empires.

For this reason, speculation is free. It is not mere idle dreaming, it is a rational estimation of chances to consider alternatives to the old procedure of the titanic duel and the knockout blow, and to think of the qualities essential to the adoption of an alternative.

It is easy enough to say that the alternative to tyranny is freedom and that America, the world power, like America,

the fledgling nation, must stand for freedom, as none of the ancient empires did.

It is easy to say, but it doesn't mean much. For the instant we agree that we are going to stand for freedom we face the terrific question, How?

This question is terrific because, first, there is no ready-made answer to be learned from the experience of other nations, and, second, different peoples have different ideas about the nature of freedom. A man isn't free unless he is free in his own estimation. There is a state of mind, well known to psychiatrists, in which the victim is convinced that he is confined within a certain area, and nothing can persuade him that he is really free. As long as he is wedded to that idea the man is, for all practical purposes, a prisoner. On the other hand, the philosopher Epictetus, although legally a slave, was a much freer man than his Roman master.

The American people, in their domestic affairs, have found the largest measure of freedom in democracy. But if the American people use their new position as a dominant world power merely to advance democracy, they will not necessarily be standing for freedom. To thrust democracy upon a people who dislike it and don't want it would be as tyrannous as to thrust absolute monarchy upon them.

That is, in fact, the error into which our great rival for world power has fallen. Russia stands for communism and will tolerate no other form of government where she exercises either direct authority or prevailing influence. If com-

munism were as good as it is actually bad, still to thrust it upon reluctant people would be an act of tyranny.

The United States is democratic only incidentally. Basically, it stands upon the principle that governments derive their just powers from the consent of the governed. In our experience democracy is the best way to give that principle force, therefore we are democratic; but it isn't the only way. The British government, for example, unquestionably derives its powers from the consent of the governed, which means that they are just powers; but it is only partially democratic. The head of the state is a hereditary monarch, and there is an aristocracy endowed with certain honors and privileges by the accident of birth. For Americans to undertake to compel the British to adopt complete democracy would be worse than arrogant folly, it would be downright insanity.

The Dutch and Scandinavian monarchies—Denmark, Sweden, Norway—stand by the consent of the governed. If the Belgian throne is shaky, it is due to the conduct of Leopold III, not to a popular revolt against the whole system. For Americans to press democracy upon these nations would be to abandon all just claim to being defenders of freedom and to assume the role of defenders of democracy only—a much narrower program.

To bear this in mind and govern ourselves accordingly will call for a greater degree of tolerance than has as yet been exhibited by any dominant power. But not much

greater. Both the Romans and the British managed to show almost as much. These imperial powers were extremely reluctant to interfere with the manners and customs, especially the religious practices, of conquered peoples, and where they could they preferred to leave governmental institutions undisturbed. Their imperialism consisted in exacting tribute and outward respect for the empire. So far, at least, the American people have no idea of demanding either money or salutes from weaker nations with whom we deal; but some among us are so certain that democracy and freedom are the same thing that they can see no injustice in forcing our system in wherever we have power to force it. Yet, whether they see it or not, that would be imperialism in the old style.

When Pericles spoke at the memorial service to the Greek war dead in 431 B.C. he[4] made one of the greatest orations of all time; and the high point of that oration is the passage in which he described Athens as "the school of Greece." Men admit that here is the highest concept of national destiny ever formulated by a statesman; but they assume that it is far beyond human reach.

Perhaps it is, but that does not detract from its excellence as an ideal. A school, it must be admitted, is sometimes a prison, and occasionally a prison is a very good school; but ideally they are wholly different things, and Pericles was speaking of the ideal.

[4] If, indeed, the speech was composed by him, and not by Thucydides, the reporter, whose text is the only one we have.

Like most political orators, he gave his own country very much the best of it. By the time he spoke, Athens had already fallen away from her old faith in the good neighbor policy and was at least halfway on the road to tyranny. Nevertheless, the idea that flashed accross his mind has fascinated the world ever since. A nation possessing tremendous power, but employing it, not as a taskmaster, but a schoolmaster, obviously would be such a force for the advancement of civilization as the world has never seen.

The trouble is that the ablest schoolmaster always teaches more by example than by precept. What he is influences the boys far more than what he says. If he is honorable but dull, his pupils are likely to grow into honest men but with small appreciation of intelligence; if he is brilliant but drunken, he will instill more respect for intellect than for character. But if he is both honorable and brilliant, he is a great man, and great men are rarities.

Applied to a nation this idea is stretched beyond the bounds of credibility. We do have honorable and brilliant men—not a great many, but some. The world has yet to see, however, a nation whose record is both honorable and brilliant. To suggest that the United States of America should be that nation is to suggest that it be what no nation has ever yet been, and what many men believe that none can be without a reconstruction of human nature.

If human nature must be reconstructed before the United States can follow a new policy, then the idea should be abandoned instantly. Men, as individuals, have not improved

appreciably since history began. Socrates died more than two thousand years ago, but we have not produced a better man since, unless, indeed, one offends religious sentiment by regarding the Nazarene as strictly a man and not an incarnation of the Divine. Confucius died twenty-five hundred years ago, but it is doubtful that the world has since produced an intelligence at once as supple and as strong. Homer died perhaps three thousand years ago, but there has never been a greater poet. If character, intellect, and inspiration have not improved the case is closed. Human nature is not in process of reconstruction.

But government, although it is a product of human nature, is not itself human nature. Man, who has done little with himself, has worked wonders with everything around him. Ictinus, who built the Parthenon, was a great genius, one of the greatest of all time. Major General Edgerton, who is reconstructing the White House as this book is written, doubtless would regard as insane anyone who suggested that he is a greater man than Ictinus; yet it is a fact that Edgerton, as an engineer, can do things that were beyond Ictinus' power. The explanation is that the modern engineer has inherited a vast body of knowledge that men have collected since the days of ancient Greece. If this is true in engineering, surely it is true to some extent in the trickier and more difficult art of government.

Human nature cannot be reconstructed, but all the arts are constantly being reconstructed, and government is an art—stubborn, difficult, the hardest of all to master, but

nevertheless an art and therefore capable of improvement by the same sort of human beings that invented it. It has been improved. The Roman Empire was distinctly better than the Persian, and the Persian probably had points of superiority over the Assyrian. The British Empire, although it never attained as complete mastery of the world as the earlier ones, was, on the whole, the best of the lot.

Where, then, is the proof that it is impossible for men, although they are not themselves better than their ancestors, to devise a structure of world power that is better than any empire? It would be a triumph, a great and wonderful triumph, but to say that it would be the achievement of the impossible is to ignore what has actually been done in the past.

The United States has had thrust upon it a position of leadership to which it never aspired and for which it had made no plans. Woodrow Wilson was great because he rose to the emergency and improvised a plan which, although it failed, failed not through inherent flaws in the plan itself, but through the weakness and inexperience of the men who tried to operate it. Franklin D. Roosevelt—assisted notably by Winston Churchill, and also by a great number of statesmen from a great number of countries—revived the plan in a modified form, perhaps, although not certainly, an improved form.

Once again weakness and inexperience have appeared in the operators and the plan seems to be staggering; but it has not collapsed yet, and don't forget that the Constitution

of the United States staggered and reeled for many years—the Hartford Convention almost wrecked it in 1814, the Nullificationists in 1832, and the Confederacy in 1861—before our people became reasonably adept in managing it.

This plan, incorporated in the League of Nations first, and in the United Nations second, definitely abandons empire as defined by Webster, "A group of nations or states united under a single sovereign power," but erects no barrier against hegemony, "Leadership; preponderant influence or authority, especially of a government or state." The difference between empire and hegemony is essentially the difference between a taskmaster and a schoolmaster, the difference between one who commands and one who persuades. Both rule, and both may be overthrown by the same kind of power that they employ. The emperor rules by force, and force may destroy him; the hegemon rules by ideas, and force is of little effect against him; he can be permanently destroyed only by better ideas.

Here, then, is an alternative to the pattern of history traced by Toynbee—the reduction of the independent nations to two giant powers, the duel between the two, the knockout blow administered to one, followed by the rotting away, sometimes slow, sometimes rapid, of the survivor. The alternative is as yet dimly seen. Its outlines are wavering, its position not clearly determined. To be quite candid, its very existence is uncertain, but it seems to exist. It is that America should aspire to be the school of the free nations, and not their jailer.

The task of this generation is to clear up the uncertainty, which can be accomplished only by a resolute endeavor to adopt the alternative, since it has been proved—in fact, it has been proved twenty-one times—that the old plan carries within it the seeds of its own death.

To make the effort certain qualities will be required. So much is obvious. But it is not obvious that this American people—not the American people who founded the republic in 1776, nor the American people who successfully defended it from 1861 to 1865, not quite the American people who cheered wildly for the League of Nations in 1919 and then forgot, but this existing generation and especially that part of it that will be active in public affairs for the next ten years—has the necessary qualifications. Upon the answer to that question the history of the last half of the twentieth century will turn; for if this American people lacks what it takes to give the current of events a new direction, we may rest assured that the Russians will not do it, and the world will spin down to a repetition of the old, familiar catastrophe.

The qualities that this American people will need include, of course, the qualities possessed by that American people that set up the republic. For in 1776 they broke a vicious cycle that the nations of the world had been following ever since the fall of Rome. England may be taken as a typical example, as she proceeded from Elizabeth, a great monarch, to James I, a bad one, to Charles I, a worse, to revolt, and when revolt subsided to Charles II, a bad king, to James II,

a worse, to revolt, and when revolt subsided, to William III, and so on. Each country played the tune in its own peculiar fashion, but the tune of monarchy was essentially the same, a sort of round, returning upon itself endlessly—bad-worse-intolerable-revolt, bad-worse-intolerable-revolt, until the American people who lived in 1776 after "revolt" cut in with a new note, "republic," whereupon the history of government angled off in a new direction.

In the larger history that Toynbee has made fashionable, the history whose units are not nations but civilizations, a comparable round has been followed. It starts with something like anarchy, from which kingdoms emerge, from the kingdoms empires, gradually consolidated into two, the duel, the knockout blow, the universal empire, and the beginning of the descent into anarchy again. We apparently stand now at the point where the powers are reduced to two—one, the Soviet system, a true empire of the familiar type, the other, the democratic nations, not yet an empire, but an alliance of which the United States, through force of circumstances, not choice, has become hegemon.

If this is, in fact, the situation, then now is the time for the new note to be struck; and it is obvious that the people who are to strike it must have the courage, the honesty, the tolerance, the energy and the steadfastness of that American people that struck the new note in the smaller history of nations in 1776.

But this American people needs in addition a great store of patience. We are seeking, not satellites, not tributaries,

not colonies, but allies. We are trying to establish, not a common sovereignty, but a common purpose. We wish that others may march with us, not for fear that a worse thing befall them, but in hope that a better thing may befall.

This means that our purpose must be made clear and reasonable to peoples whose languages, manners, customs, traditions, and histories are different from ours. Some of these peoples have almost no experience of democratic government, and none has lived for a hundred and sixty-two years under the same democratic constitution, as we have. Therefore, many things that we take as a matter of course are new and strange to our friends and need a great deal of explaining. Some things in our system, let us be honest enough to admit, are to foreigners not merely strange, but idiotic; they suit our way of thinking well enough, yet they might be ruinous to a Burmese, and distasteful to a Swede. For us to try to impose such features of our system on others would be an act of tyranny; yet to keep constantly in mind that what may be good enough for us is not necessarily good enough for everybody else is difficult in the extreme. To explain over and over what to us is as plain as a pikestaff calls for rare patience; and we are not a notably patient people.

But it can be done. George Washington had a terrible temper. By nature, he was one of the most impatient of men. Yet from 1776 to 1781 he fought a campaign that for patience has rarely been matched and never exceeded in military history: and as the first President under the Constitution for eight years he held that temper in check and proceeded

coolly, carefully, patiently through the bewildering mazes of a new government. It almost killed him—in fact, there is little doubt that it did shorten his life—but he did it.

Ah, the reader may say, but he was George Washington, "first in war, first in peace, and first in the hearts of his countrymen," and in comparison who am I? Well, the shocking fact, the truly appalling fact is that for the next few years, no matter who you think you are, you have darn well got to be George Washington, if the civilization of the western world is to be preserved. That is to say, millions of plain, ordinary Americans are compelled to exhibit some of the patience, the quiet resolution of that great man. The penalty for failure will be loss of the mightiest opportunity presented to a modern nation.

This is a hard saying, but there is a harder to follow. It is this: it is impossible to excuse yourself by saying that it can't be done, because it has been done, not by Washington alone, but by thousands of quite ordinary fellows who followed him. The privates with bleeding feet at Valley Forge were as remarkable, in their way, as the commander. The unknown clerks who slaved with Robert Morris; the all but unknown Congressmen harried by the British from Philadelphia to Baltimore to Harrisburg to York, constantly in danger of death on the gallows; the women who waited and hoped and prayed; Benjamin Franklin in his seventies braving not only the dangers of the wild Atlantic but also the dangers of enemy cruisers; John Adams, that proud man, meekly swallowing the contumely of French bankers, Dutch bankers,

Spanish bankers, German bankers; tough, profane sea-faring men taking out that floating coffin, the *Bonhomme Richard*, and sailing her to victory under John Paul Jones—all these demonstrated as well as Washington the patience that the American people of the eighteenth century were capable of developing when a great objective was to be gained by patience.

If we, with an even greater objective to gain, cannot develop a comparable patience it means simply that this American people is not as good as the American people of 1776.

This does not mean that we cannot succeed unless the whole of America is swept by a fervor something like the religious fervor of the Great Awakening following 1734. There is no reason to expect that, and there is no reason to wait for anything like that. The effective people, in this country as in any other, are a minority. Always the effective people must carry along a huge mass of dead weight, consisting of those who have no opinions, no aspirations, no preferences, and, in sum, no wishes except the wish to be let alone—which is, of course, the most hopeless of all wishes.

But what of that? It is nothing new. If John Adams is right, no more than a third of the American people of 1776 were really in favor of independence; but that third were enough. Today we have reason to hope that forty-six per cent of our people are politically alive; if we can rally forty-six instead of thirty-three out of the hundred, that is a gain of more than thirty-nine per cent, which is not bad, considering the relatively brief time that has elapsed, for a hun-

dred and sixty-two years is really not much in the life of a nation.

There is every reason to believe that a call to the service of a high ideal today would be heard by more Americans, per hundred, than heard it in 1776. Whether it would be heeded by as many is another question. It is a question that must be answered by the reader, for the writer of this book, like a suspected Communist before a Congressional investigating committee, refuses to answer on the ground that he might incriminate himself.

It must be answered by the reader individually, for it is utterly hopeless to sit around waiting for the appearance of another George Washington. Great men are, indeed, valuable beyond computation, but they are also sporadic and no one can predict their appearance. More than that, when they do appear they are helpless unless there is greatness in the people they lead, for even their genius cannot evoke greatness where none exists. The problem of the plain, ordinary American today is not to find another Washington, but to be ready to follow one when, as, and if a benevolent Providence sends him along.

The reader, if any, who checks the qualities listed here as essential in the present crisis, may be struck by what seems to be a conspicuous omission. Nothing has been said about generosity. Yet a nation that sustains the Marshall Plan and that is committed in principle to President Truman's Point Four obviously must be a nation prepared to lay out money with no hope of an immediate return.

But wise investment is not generosity. The American people have always been charitable and there is no apparent reason to doubt that this generation, like its predecessors, is willing to share its abundance with victims of disaster or famine in any part of the world. Yet charity, while the greatest of virtues, does not figure prominently in statecraft.

Such things as the Marshall Plan and money spent in pursuance of Point Four are less like gifts than like insurance premiums. This is easily understood when it is a matter of appropriating money to purchase arms and ammunition for one of our allies; but assisting an ally to pull out of an economic depression and to maintain freedom and order in his own territory is one method of giving him the will to fight, and the will to fight is even more important than the gun.

The quality needed for this sort of work is not generosity. It is the wit to understand how to use our money to make our friends ever more strong and resolute; and, of course, the faith to believe that, after they have become strong and resolute they will still remain our friends. This quality is important in the extreme, but its right name is skill in statecraft, not generosity.

Finally, there is one more quality that the men of 1776 had that is all-important to the men of 1951, but so elusive is it that it is hard to put into words without running into questionable mysticism. It is a sense of dedication, certainly not as strong now as it was then, yet not altogether absent. One caught a hint of it in a song, briefly popular in the early days

of the second World War. "Praise the Lord, and wheel into position," we were singing then,

> Praise the Lord, we're on a mighty mission,
> Praise the Lord, and pass the ammunition
> And we'll all stay free.

It may be that the poet was merely looking for a rhyme, but that "mighty mission" did not seem inappropriate to him, nor to the millions who sang. It was clearer to the men of 1776, but even to them it was not clear enough to pin down in legal terminology, so you will not find it in the Declaration of Independence, or in the Constitution; but you will find it in their casual remarks, not set forth in detail but as a thing taken for granted, something that every body knew and nobody questioned.

"It is a rising, not a setting sun," said Franklin, pointing to the symbol on the President's chair at the end of the Constitutional Convention. He knew that sunlight is not a monopoly of any country. "The last, best hope of earth" Jefferson called the Union, and attempts to dissolve it he described as "treason against the hopes of the world," not merely against Americans. "Let us raise a standard to which the wise and honest can repair," said Washington; "the event is in the hands of God." The erection of a standard is something over and above the protection of life, liberty, and the pursuit of happiness.

In these utterances and a hundred like them there is apparent a conviction that while the first aim of the people in

forming their new government was to "effect their safety and happiness," they had proceeded somewhat beyond that goal. They desired first to assure their own security and prosperity, but in taking measures to that end they felt that they had given the world more than they exacted from it; and they were content to have it so. They did not feel that someone had bested them and they were cheated and shamed, when they gave more than they took.

On the contrary, it was their pride to believe that they were fighting the battle of alien races in far distant lands, and that in effecting their own safety and happiness they were loosening the bonds of others, free of charge. This is in the literal sense a lordly pride, in that it can be cherished only by a lord, never by a bondsman; but it has been the pride of the nobler sort of Americans from the beginning, reaching perhaps its stateliest expression in the words of Woodrow Wilson as he asked Congress to enter the first World War, "with the pride of those who know that the day has come when America is privileged to spend her blood and her might in defense of the principles that gave her birth and happiness and the peace which she has treasured."

Note the choice of words—with a fearful ordeal lying ahead America was not condemned, but "privileged" to spend her blood and might, not for territories and indemnities, but for the principles that gave her birth. A nation cannot monopolize principles; once they are established and vindicated they belong to all mankind, and whosoever chooses may adopt them free of charge.

To the men of 1776 this seemed natural and not at all objectionable—that is to say, to those men of 1776 who were wise and brave, for there were plenty of fools and poltroons in that generation, too. They were demanding much—"among the powers of the earth, the separate and equal station to which the laws of Nature and Nature's God entitle them"—but they were prepared to give more than they demanded—"a beacon to mankind," a standard for the wise and honest, a new, great hope. Nor did they think themselves cheated in the bargain.

The great cynic who faces us today says that they flattered themselves. It is Communist doctrine that they gave nothing to the world except a more insidious and ruthless form of imperialism, different from the old only in that it relies on the power of the purse rather than that of the sword. It is the doctrine of communism that no nation is capable of lordly pride, the pride that delights in returning more than it exacts, for materialism is the only reality, and to exact at least as much as one gives is the only measure of success.

Large numbers of Americans who claim to be foes of communism admit that in this the Communists are right. They cannot comprehend an immaterial return for a material gift. Therefore they have no joy in the adventure that lies before us. They concede that we must take steps to protect our lives and our possessions. They concede that hiring mercenary soldiers to fight for us may be advisable. Therefore they are willing to spend money to arm the other members of the Atlantic Pact. But money that goes merely

to inspirit them by reviving their prosperity, and labor that goes to help them by developing their productive skills and training the minds of their young people seems utterly wasted.

Such Americans must look toward the second half of the twentieth century gloomily. For it is plain, it is only too plain, that merely to maintain "among the powers of the earth the separate and equal station" that our forefathers won will be tremendously costly. It will strain our resources, it will strain our skill, above all, it will strain our nerves. It means years constantly on the alert, sleepless years, anxious years, suspicious years; and all to gain nothing, barely to remain where we are and not slip back.

There is no joy in that prospect. A man may accept it courageously, but none can accept it cheerfully, which explains why a large part of this country is so full of woe that visiting foreigners are astonished and profess themselves unable to understand the American people. We have everything, they say, and yet we are unhappy.

As regards a large part of America, they are profoundly right. A man who has everything he wants is always unhappy, simply because he has nothing to look forward to. If wealth, power, independence, and reasonable security are everything a nation can have, then the United States of America has everything, and any change in the future must necessarily mean a loss, since there is no more to gain.

But in 1776 the great men reckoned in larger figures. Wealth, power, independence, and security they desired, of

course, but as means to an end, not the end itself. They had erected a standard to which the wise and honest might repair. There was no money in it. There was no power in it. There was no safety in it. But there was satisfaction in it. More than that, the satisfaction was immortal because it could never be satiated. True, it was an immaterial thing. It was a matter of pride, hope, and faith, which is to say, a matter not to be weighed in the physicist's balances nor measured by the engineer's slide rule. If materialism is the only reality, it was unreal; but for all that, it filled the men of 1776 with a blithe confidence that stayed with them all along a path more perilous than ours. In poverty, danger, and weakness they had a better time in the world than some of us are having. Visiting foreigners were astonished by their good cheer, and professed themselves unable to understand the American people. They had nothing, said the visitors, and yet they were happy.

"The event," said Washington, "is in the hands of God." In 1799, when he died, that was true, and the event, for a long time, was happier than Washington would have dared hoped.

But God has handed the event back, not to Washington, but to this American people of 1951, and if we are abashed, if, indeed, some of us are frightened out of our wits, what wonder?

Here we are, right back where the first President and his friends stood. They had just emerged from a long and des-

perate war for survival. So have we. As a result of that war they were compelled to erect a new system of law and order, basing it on principles as yet untried in practice and which all birds of ill omen said were hopelessly impractical. We are in the same fix. True, what we have to build is not a national system of law and order, but a world system, basing it on principles that have worked encouragingly well on the smaller national scale, but that have never been tried on a world-wide scale; and once again the birds of ill omen are all saying that the effort is hopelessly impractical. They realized that they had to succeed or fall in ruin. So do we. The main difference is that our problem is larger and more complex, therefore harder, than theirs. But there are fifty times as many of us as there were of them, and we have more than fifty times their resources in material things.

The question is, have we the immaterial things? And of all the immaterial factors, perhaps the most important is that elusive sense of theirs that they were building beyond their immediate needs, that they were building, not merely a nation, but a beacon, a standard, a realization of the hopes of all mankind. Franklin saw not a rising nation, but a rising sun that would flood the world with light. A glimpse of his vision would give us more reassurance than the Atlantic Pact.

The American, and especially the young American, who tries to work out some reasonable scheme of conduct and belief as the latter half of the twentieth century begins deserves compassion. He walks through storms of controversy

which the wisdom of Solomon could not determine with certainty. In addition to the genuine perplexity which harasses the wisest and best, the silliest and the worst are loosing dust clouds of hatred, envy, self-seeking, and prejudice to blind the eyes of the sincere. Sometimes it seems that the honest man is a new Ishmael—every man's hand is against him as he seeks the truth.

And yet let no one be too sorry for him, for he has at least a profound belief that he is among those present at a great event. The very clamor and confusion, the very presence of the clouds and darkness that overwhelm him are indications that something tremendous is occurring, that, although he cannot see it clearly, something is taking shape that will profoundly affect the history of the world for a period altogether beyond computation.

Furthermore he has—or he may have if he is man enough to claim it—a fine inheritance. He is heir to the spiritual legacy left by the men of 1776, and one item in that legacy is the happy belief that more than national greatness is the destiny of this people, that the ramparts we build are larger than we require, large enough to "secure the blessings of liberty to ourselves and our posterity" and, besides, to all the oppressed, all the enslaved, all the wronged and outraged from all the corners of the earth.

The seals that close the book of the future cannot be broken here. What this American people will do with its opportunity remains to be seen; the answer will depend upon how much we have aged since such an opportunity

last came our way. Years are no true measure of age. The capacity for wonder and delight is the essence of youth. A man who has lost it is old at twenty-one; but Benjamin Franklin, still delighting in making maritime observations, and wondering at the cause of smoky flues, was still youthful when he died at eighty-three.

Our troubles are many and our perplexities great; but their very extent reminds us of the time when our republic was born. In that is a hint that this, too, may be a generation offered the opportunity to be the school of the world, teaching it that rule by consent of the governed is mightier than empire and so reaching out toward a glory that Greece did not touch and a grandeur that Rome did not attain.

The American who finds in that thought wonder and delight still has within him some spark of the flame of youth, and he has no great quarrel with the world. For the possibility enchants him more than his swarming troubles affright him. He strides through the murk with the blithe spirit of the men who saw the sunrise of the republic, in the hope that thirty years hence the world will see the darkness in which he wanders as morning, not evening, twilight, the darkness before the dawn. Whether enough of us are worthy of our inheritance remains to be seen, but some are; and for the high-hearted successor of the men of old there is wonder in being American, for the bold man there is delight.

Postscript

FOUR-FIFTHS of all the people who will read this book live in territory that is served by a public library; but four-fifths of that four-fifths, I am led to believe by experience and observation, have no idea how good that library is, and little idea of what it is really for. If you have done no more than borrow books from your library, you have exploited only one, and by no means the most important, of its potential values.

In writing this book, for example, I do not recall having borrowed a single volume from the Enoch Pratt Free Library of Baltimore, the one that serves my neighborhood, but I borrowed freely from its knowledge, its intelligence, and its energy, by putting to its personnel innumerable tricky, perplexing, and—as I have no doubt they frequently seemed—idiotic questions that arose as the work progressed. These questions were answered, most of them promptly, but a few only after days of intensive research, and in a way that made me feel that the library, far from being annoyed, was really pleased at having them asked.

This is a tribute to Emerson Greenaway, Esq., the librarian, Mrs. Mary N. Barton, head of the General Refer-

ence Department, and their co-workers, but I think it fairly represents the attitude of the average public library. It is probably the attitude of your public library as much as it is that of the Pratt; if you don't know how good yours really is, isn't that your fault?

This note is added here because without the friendly interest of the American Library Association, represented by Dr. Ralph E. Ellsworth, Director of Libraries at the University of Iowa, this book would never have been undertaken; and without the generous assistance of Gardner Cowles, Esq., the A.L.A. might not have been in position to sponsor the project. But in both it was friendly interest, not interference in any way, shape, or form. They cannot be saddled with responsibility for a single line of the text; that lies upon the author alone.

He had help, of course, from many directions. For instance, the Hon. W. Calvin Chesnut, Judge of the United States Court for the District of Maryland, read part of the manuscript and saved the author from making many blunders both in law and in fact; a dozen other friends contributed ideas, some, and those not the least valuable, without knowing it. To these, and to my long-suffering typist, Miss Ethel Armiger, all thanks.

But to the librarians, beginning with the Pratt but extending to all members of the American Library Association, I owe my greatest debt.

GERALD W. JOHNSON

Baltimore, May 22, 1951

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